

**BUREAU OF PRISONS AND THE U.S. PAROLE
COMMISSION**

OVERSIGHT HEARING
BEFORE THE
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-NINTH CONGRESS
FIRST SESSION
ON
BUREAU OF PRISONS AND THE U.S. PAROLE COMMISSION

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MARCH 28, 1985
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Serial No. 7



Printed for the use of the Committee on the Judiciary

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U.S. GOVERNMENT PRINTING OFFICE
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BUREAU OF PRISONS AND THE UNITED STATES PAROLE COMMISSION

THURSDAY, MARCH 28, 1985

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COURTS,
CIVIL LIBERTIES AND THE ADMINISTRATION OF JUSTICE,
COMMITTEE ON THE JUDICIARY,

Washington, DC.

The subcommittee met at 10:30 a.m., in room 2226, Rayburn House Office Building, Hon. Robert W. Kastenmeier (chairman of the subcommittee) presiding.

Present: Representatives Kastenmeier, Mazzoli, Berman, Moorhead, Hyde, Swindall, Coble, and Kindness.

Staff present: Michael J. Remington, chief counsel; Gail H. Fogarty, counsel; and Joseph V. Wolfe, associate counsel.

Mr. KASTENMEIER. This morning we are continuing with our authorization/oversight hearings on the Bureau of Prisons and the U.S. Parole Commission. It is particularly important for us to carefully examine these agencies in light of the passage of the Comprehensive Crime Control Act. As a result of that act the Parole Commission will be abolished within 2 years and the Bureau will be faced with new challenges and responsibilities. Thus, before introducing our two witnesses let me take a moment to review some of the changes which will occur in the Federal criminal justice system as a result of that enactment.

Under the new law, defendants will be sentenced by Federal judges using a system of sentencing guidelines. Once sentenced the prison imposed, if any, will be fully served, less a minimal amount of good time. There will be no parole release. Also, under this system, inmates will serve substantially shorter periods of post-release supervision than is presently the case. In addition, responsibility for the revocation of post release supervision is transferred from the Parole Commission to the Federal courts. Finally, the new system provides that allowances for good behavior shall vest and that the time an inmate may serve in a community treatment facility will be severely limited. Each of these changes will have a dramatic impact on the prison system.

All of the reforms worked on the criminal justice, I mentioned above, will come on top of a dramatic increase on the prison population. Since 1981 there has been a 31-percent increase in the number of Federal inmates. Moreover, this trend is expected to continue to an even greater degree in the wake of the CCCA, the Comprehensive Crime Control Act that was passed.

Ironically, if the Federal Government, especially the National Institute of Corrections, were approached by a State facing a prison overcrowding problem of this magnitude it would likely be told to consider certain forms, for example: Limits on input, reduced pressure on current inmate population, and increased control over the output in terms of parole policies.

The Department of Justice, rather than advocating any of these in the proposed budget, does the following: (a) cuts the amount to be spent on buildings and facilities—that is space—by \$39 million; (b) makes, what I believe to be, an unrealistic projection of the increase in prison population of only 2 percent; (c) asks for 7 percent more prosecutors and investigators but virtually no new prison space an increase of 32,580 to 33,790, (d) requests a cut in the use of community treatment facilities of \$2 million. There is no indication of how the implementation of the Comprehensive Crime Control Act will be placed in a planned way.

These criticisms are not intended to fall particularly at the feet of today's witnesses, rather they are aimed at a wider audience. My fundamental questions are: What are the limits on the Federal criminal justice system? How many crimes should be Federal? Of those crimes, how many should be fully prosecuted? How much will it cost? What alternatives exist to the current expansion of the Federal criminal justice system?

Today's witnesses, who are well known to us and have testified before this committee many times, are Norman Carlson, Director of the Bureau of Prisons and Ben Baer, who is chairman of the Parole Commission. They are most welcome.

We have received copies of your statements. Mr. Carlson, would you like to proceed.

TESTIMONY OF NORMAN A. CARLSON, DIRECTOR, FEDERAL BUREAU OF PRISONS; AND BENJAMIN F. BAER, CHAIRMAN, U.S. PAROLE COMMISSION

Mr. CARLSON. Mr. Chairman and members of the subcommittee. I have a prepared statement which, with your permission, I would like to introduce into the record and summarize.

Mr. KASTENMEIER. Without objection, it is received.

Mr. CARLSON. Mr. Chairman, without question, the overriding issue facing the Federal Bureau of Prisons is overcrowding. This morning our population was 34,100, whereas 1 year ago today, it was 31,268. We have seen an increase of 2,800 inmates in the past 12 months alone. As you have indicated, since January 1981, just 4 years ago, the population has grown by 10,000 inmates.

The increase, I believe, is a result of several factors. First of all, recent Department of Justice initiatives have focused attention on drug trafficking and organized crime. I believe it is also a reflection of the additional resources that have been provided throughout the Federal criminal justice system—additional FBI agents, DEA agents, Immigration Service border patrol officers, assistant U.S. attorneys, as well as U.S. district court judges.

As you know, it is difficult to predict future trends in terms of the prison population. There are simply too many variables involved that we don't control. As you pointed out, Mr. Chairman, in

the 1986 budget we project an average population of 33,790, which we have already exceeded today by 200. The estimate we have made for 1990, 4 years hence, is 38,000 offenders.

Over the years, the Bureau has attempted to develop population projections on a conservative basis. Our reason is simple. We do not want to overbuild prison capacity. Prisons are expensive to construct and also expensive to operate.

One area of concern that you alluded to in your opening statement is the impact the Comprehensive Crime Control Act will have on the prison population. From my perspective, there is no question that it will bring additional inmates into the system and will increase our population. The reason is twofold. First, there are several new Federal offenses which are encompassed under the new crime bill. But most importantly, the Sentencing Commission, which will begin operation in 1986, will develop guidelines for use by Federal district court judges. It is difficult, if not impossible, today to predict what those guidelines will be. We will simply have to wait until the guidelines are submitted to the Congress, some 2 years from now.

There are several bright spots, however, that I would like to comment on. First, we have begun at long last to return the Marielito Cubans to Havana. Thus far we have sent two planeloads to Havana carrying a total of 51 inmates. The agreement between our two governments calls for 100 per month to be taken back to Cuba. It will take approximately 2 years, however, to diminish the total of 1,800 inmates we now have at the U.S. Penitentiary in Atlanta, GA, plus the 900 Marielitos that have been identified serving State sentences throughout the country.

As I have commented on before, the U.S. Penitentiary in Atlanta, GA is, without question, the most difficult prison to manage in this country. I think our staff have performed in a very professional manner under very difficult and trying circumstances.

I might comment that when the Cubans leave Atlanta, we plan to remodel the institution as we are doing with Leavenworth and convert it into a modern level 5 institution.

Mr. Chairman, as you recall, in 1982 the Bureau of Prisons undertook a multifaceted plan to deal with the problem of overcrowding. We have attempted to attack the problem in several ways. First, we have acquired surplus properties whenever possible. With the help of this committee as well as the Appropriations Committees, we acquired a former Air Force Base in Duluth, MN, which is now occupied by some 430 Federal inmates.

In addition, we purchased a former seminary in Loretto, PA. We are now in the process of renovating the facility and will have it fully occupied by 500 inmates later this year.

With the help of your committee we have also purchased a former State mental hospital in Rochester, MN. We will have a capacity of 500 medical, surgical, and psychiatric patients in the Rochester facility by late fall.

We continue to search for surplus properties. I think they are a cost-effective way to attack the problem of overcrowding. Also, the time required to put a surplus facility on line is much less than that required to build a new institution.

Second, we are adding additional housing units wherever possible. We currently have 22 projects underway to add to the capacity of existing institutions. Five of those housing units will be completed by June 1 and the others later this year and next year. We are requesting staff for 10 of those units in the 1986 budget, which is now before the Appropriations Committee as well as your committee.

Third, we plan to expand the use of Community Treatment Centers prior to release. During the past 3 years the average daily population in halfway houses has gone from 1,400 to 2,400, with an average length of stay of approximately 120 days prior to release. We plan to increase the population to 2,700 during fiscal 1986.

Finally, Mr. Chairman, we are building new institutions. The institution in Phoenix, which the committee authorized some 3 years ago, is on time and within the money and will begin receiving its first inmates next week. We plan to dedicate the institution in May and have it at full capacity of 570 by October or November.

In addition, the Oakdale, LA, Immigration Detention Center is now in the final construction process. This institution will house 1,000 immigration detainees for the Immigration and Naturalization Service. The plan is to open it in December 1985.

I would point out, that the Oakdale, LA, facility will not impact on the Bureau of Prisons overcrowding. Rather, it will serve the Immigration and Naturalization Service's need to house aliens who are going to be deported from this country to their native lands.

On the west coast we are underway with a project in Los Angeles to build a new Metropolitan Detention Center similar to the ones we operate in San Diego, Chicago, and New York City. Activation of this facility will take 500 inmates out of the institution at Terminal Island, CA, and enable us to treat them in a far more humane and effective manner. If all goes according to plan, we will break ground for the facility in September of this year with completion scheduled for July 1987.

In other areas of the country we are attempting to find sites to build new prisons. I have to report, however, that in the northeast region we are experiencing great difficulty. As I am certain you are aware, prisons are not popular with a variety of constituencies. They rank somewhere between toxic waste dumps and nuclear plants.

In the Southeast, however, we do have several promising sites and, if all goes according to plan, we should begin to construct a facility in the southeast region, sometime later this year or early next year.

Let me assure you, Mr. Chairman, that we are very much concerned with overcrowding. We are attempting to address the problem in what I consider to be a responsible manner. Taken together, the projects that we have enumerated will add 5,900 beds to the system over the next several years. Approximately 2,000 of those beds will be opened during calendar year 1985.

Let me close if I may, by briefly commenting on Federal Prison Industries. As you know, we currently employ over 9,000 inmates per day working in Prison Industries. In this year's budget we are requesting an additional 61 positions so we can add 1,000 more inmates to the work program. As you will recall, Federal Prison In-

dustries is a totally self-sustaining corporation. The profits are used to cover all expenses including staff salaries, construction of new buildings, as well as inmate wages. Additional profits are used to defray educational and vocational training expenses throughout the Bureau of Prisons.

Finally, Mr. Chairman, let me comment on the National Institute of Corrections. As you know, NIC plays a very important role in helping State and local governments improve their correctional programs, basically through staff training and technical assistance. With a small staff of 41 full-time positions and a total budget of only \$13 million, I believe the National Institute of Corrections is doing an excellent job of assisting State and local governments.

I want to conclude by saying that we appreciate the opportunity to work with you and your staff. We have appreciated the visits from you and members of your staff over the past years and we certainly hope that the cooperation will continue in the future. That concludes my statement, Mr. Chairman. I would be pleased to answer any questions you and your colleagues or the committee may have.

[The statement of Mr. Carlson follows:]

STATEMENT OF NORMAN A. CARLSON, DIRECTOR, FEDERAL BUREAU OF PRISONS

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to appear before you again to discuss the Federal Bureau of Prisons.

PRISON OVERCROWDING

Between January 1981 and today, the federal prison population has expanded from 24,000 to 34,000, a 42% increase. During the past 12 months alone, the population increased by 2,600.

Managing the existing level of overcrowding together with projected future increases in the inmate population are the major challenges facing the Federal Bureau of Prisons.

The dramatic increase in the number of inmates confined is the direct result of an expanded Federal Criminal Justice System which is focusing specific attention on narcotics trafficking and organized crime. Based on our analysis of recent trends, we project that the federal prison population will continue to increase during the next several years and will reach 38,000 by 1990. These estimates are admittedly conservative in order to insure that scarce resources are not expended to construct unnecessary prison capacity.

The recently enacted Comprehensive Crime Control Act of 1984 will, in all likelihood, further increase the inmate population. Two factors exist which make it impossible to estimate the long term impact at this time. First, for the several new federal offenses created by the Act, we must wait for the full implementation of investigative and prosecutorial guidelines and identification of resources directed at these crimes. Secondly, the sentencing reform provisions of the Act will have the most significant long term impact on the inmate population level. Since the Sentencing Commission will not submit its recommended guidelines to the Congress until 1986, we believe it would be premature to attempt to make predictions at this time.

CUBAN DETAINEES

I am pleased to report that, at long last, we have begun to return the Cuban detainees confined at the United States Penitentiary in Atlanta, Georgia. On February 21, 1985, the first group of 23 Mariel Cubans were returned to Havana. Another group of 28 were sent back on March 18th, 1985.

Without question, the Cuban detainees have been the most violent, disruptive and unpredictable group of offenders ever confined in the Federal Bureau of Prisons. In addition, their presence has totally diverted the Atlanta Penitentiary from its intended mission of housing high security federal offenders.

The recent agreement between the United States and Cuba provides for the return of the detainees at the rate of no more than 100 a month. This means that it will take two years to return the 1,800 presently confined at Atlanta and the additional estimated 900 now confined in state prisons throughout the country. When the Cubans have been returned, we plan to remodel the Atlanta Penitentiary and return it to its intended use as a Security Level Five institution.

MULTI-YEAR PLAN

Mr. Chairman, in 1982 we began a multi-faceted plan to accommodate the population increases we were expecting in the next several years. Since that time, our planning has been based on four approaches designed to provide additional capacity in the most cost-effective and timely manner.

First, we have sought to acquire surplus properties because such acquisitions are much cheaper than new construction and can be brought on line much faster. Recent acquisitions include the Federal Prison Camp in Duluth, Minnesota (a former Air Force Base); the Federal Medical Center in Rochester, Minnesota (a previous State Mental Hospital); and the Federal Prison Camp in Loretto, Pennsylvania (a closed seminary). Each of these facilities is now housing inmates and will be fully renovated by January 1986, adding 1,500 beds to our capacity in a short period of time.

Secondly, we are expanding the capacity at present institutions wherever possible. With funding approved by the Congress through 1985, we have added or will add new housing units at 22 existing institutions. We have requested staff to activate ten of these units in 1986 and five additional housing units are requested in the FY 1986 budget.

The third approach is to utilize contract halfway houses to facilitate the release transition of Federal inmates to the community. Our policy is to use such centers to the maximum level possible, consistent with public safety. During the past three years we have increased the halfway house population from 1,400 to 2,400 and plan to increase it to 2,700 in 1986. We have also used other contract detention and confinement resources. Recently, for example, we have contracted with a private firm in California to operate a secure facility to house Youth Corrections Act offenders.

Finally, where we cannot meet capacity needs through contracts, expansion, or acquisitions, we request approval for construction of new facilities. We are nearing completion of the new Federal Correctional Institution in Phoenix, Arizona, a medium security facility which will eventually house almost 600 offenders. The initial group of inmates will arrive at Phoenix next week. We are also currently designating the Los Angeles Metropolitan Detention Center, a 550 bed pre-trial detention facility which will be opened in 1987.

Construction is now being completed on a 1,000 bed Alien Detention Center in Oakdale, Louisiana which the Bureau of Prisons will operate to house alien detainees for the Immigration and Naturalization Service. Funding is requested in the 1986 budget to activate the facility which will open in December of this year.

We are also pursuing the acquisition of suitable sites for two institutions in the Northeast Region and one in the Southeast. For some time, we have been experiencing difficulty locating suitable sites in the Northeast. The problem of finding suitable sites explains why we are not requesting construction funds for new facilities in the 1986 budget.

When taken together, the currently approved expansions and those requested in the 1986 budget will increase the capacity of the Federal Prison System by 5,900 beds. Approximately 2,000 of these beds will come on-line during the next year. With currently approved projects and those identified for future year budget requests, our objective is to keep pace with the continuing increases in the inmate population and to substantially reduce the level of overcrowding.

I want to again assure you, Mr. Chairman, that we are extremely concerned with prison overcrowding and its attendant problems and believe that we are approaching the issue in a responsible and cost effective manner.

FEDERAL PRISON INDUSTRIES

Mr. Chairman, I want to briefly discuss Federal Prison Industries and the important role it plays in providing inmates with work opportunities and job skills. Federal Prison Industries currently employs over 9,000 inmates and operates factories in 43 of the 45 federal institutions.

In 1986 the Corporation is requesting 61 additional positions to provide supervision for the expansion of industrial programs at 19 institutions and the addition of new factories at two facilities. This expansion will provide jobs and training for ap-

proximately 1,000 additional inmates. As you will recall, all Corporate expenses including plant expansion and staff salaries are covered by earnings so that no appropriated funds are required. Profits are used to provide academic and vocational training programs and financial assistance to inmates who work in institutional maintenance assignments.

The Chief Justice has been a staunch supporter of strengthening prison industries and has generated national attention on the subject. One of his recent initiatives is a center established at the George Washington University to foster major improvements in corrections through the study and promotion of prison industries, literacy training and related activities. The Bureau of Prisons is a participant in these efforts.

NATIONAL INSTITUTE OF CORRECTIONS

Finally, Mr. Chairman, I want to note that the National Institute of Corrections is continuing to perform its role as a vital force for improvement in corrections at the state and local level through training and technical assistance services. The Institute's National Academy of Corrections has trained thousands of Sheriffs and correctional administrators from all over the nation.

In my opinion, the Institute has retained its effectiveness in large part because it has remained small and is able to respond directly and promptly to requests for assistance.

That concludes my formal statement, Mr. Chairman. I would be pleased to answer any questions you or your colleagues may have.

NORMAN A. CARLSON, DIRECTOR

Mr. Carlson, 52, has been the Director of the Federal Bureau of Prisons since 1970. He was born in Sioux City, Iowa and is a graduate of Gustavus Adolphus College (B.A., Sociology, 1955) and the University of Iowa (M.A. Criminology, 1957). He began his career as a correctional officer at the Iowa State Penitentiary in 1956 while he was a graduate student. He entered the Federal Prison Service the following year as a parole officer at the United States Penitentiary, Leavenworth, Kansas. He has served as a supervisor at the Federal Correctional Institution, Ashland, Kentucky, project director for the Community Treatment Center program and for four years was Executive Assistant to the Director. In 1965, he was a graduate fellow at the Woodrow Wilson School of Public and International Affairs, Princeton University. Mr. Carlson is past President of the American Correctional Association, after having served as President of that organization between August 1978 and August 1980.

Mr. KASTENMEIER. Thank you very much. I think if Mr. Baer will bear with us, we will in fact ask some questions.

Mr. Carlson, I am certainly not one who over the years has been pressing for rebuilding programs for prisons. But I am a realist and I can see the trends, and so can you.

I would think that any prison system has some real management and legal problems from overcrowding. That is certainly true of the Federal Bureau of Prisons, is it not?

Mr. CARLSON. Yes, it is, Mr. Chairman.

Mr. KASTENMEIER. Now, in terms of the number of prisoners that you currently have committed to your authority and the number of spaces and beds which, in terms of design, those that your institutions are designed for, you have a shortfall.

Mr. CARLSON. By 9,000, that is correct.

Mr. KASTENMEIER. Now the reason that I raised the question is that the 2 percent increase and even the beds that you hope would be online by the end of the year, really runs in the face of experience. It is not merely, I think, a question of whether it would be convenient to be conservative with respect to resources, yet it falls within the purview of constitutional problems and other problems with respect to these inmates.

We, you and I, remember the time, 4 or 5 years ago, when we discussed the closing of McNeil Island, Atlanta and Leavenworth, and now you are saying that you want to retain Atlanta. We understand why it was necessary 2 or 3 years ago to retain Atlanta, because of the problem at least which is mitigating with reference to Cuban detainees. But other than McNeil Island we are certainly no further along the lines of that and can't be because of the enormity of the problem of the 42-percent increase in your prison population in 10 years time.

I know that you are not the Director of OMB. I don't want to suggest that you aren't aware of the problem that I think we both see. But we are going to have greater prosecution not less. We have a Comprehensive Crime Control Act which will probably result in greater convictions. We have no indication that prison guidelines are going to be releasing a lot of people who would ordinarily be serving sentences. So I really see no technical information or analysis which would suggest that we don't have a need for a dramatic number of new places for prisoners. I am not one who is great for prison building, but I think, in terms of what we have faced in the last half of this decade and the years ahead, this entirely under-shoots our needs with respect to your management of the Federal Bureau of Prisons. I would ask for your comment.

Mr. CARLSON. Mr. Chairman, I would agree that overcrowding is our No. 1 concern today. The population has grown much more rapidly in recent months than we anticipated. As you can appreciate, the budget before you was developed some 6 to 9 months ago by the Bureau of Prisons and transmitted through channels. I think there is a reflection in the budget that is overly optimistic. I can tell you, Mr. Chairman, that I share your concerns and have communicated those to the appropriate authorities. I hope that if we can find sites for the other new institutions, we will be permitted the funding to go ahead and build these additional institutions.

Mr. KASTENMEIER. It is true, is it not, to a far greater extent than in the history of your management of the Federal Bureau of Prisons, you are forced to rely on facilities for which, unless on an emergency basis, you indicated may be more economical, you could go online quicker. But under a normal long-term proposition, that isn't what you would prefer to do in terms of adding facilities that are needed for the prison population. These facilities were not designed for the contemporary American prison setting but obviously for something else.

So, in essence, you are operating on a temporary and emergency situation with respect to some of these new acquisitions, are you not?

Mr. CARLSON. If we had unlimited resources we would go out and construct, to our specifications, new institutions. But we realize that there are financial constraints on the Government at this particular time, and, as a result, we have attempted to find the most cost-effective solutions. I think there are some tradeoffs that have been made.

On the other hand, I have to say that the facilities we acquired in Loretto, PA, Duluth, and Rochester are very acceptable to the Bureau of Prisons and will serve a much needed requirement.

Rather than take 4 to 5 years to construct an institution from the time that we get the money from the Congress and go through the environmental impact statement process, et cetera, we can acquire an existing institution and have it online within 12 to 18 months, which I think is a rather dramatic improvement over new construction.

I am saying, in effect, that there is a tradeoff that we make. We have limited resources and do the best we can.

Mr. KASTENMEIER. I have some other questions which I am going to turn over to my colleagues. They are questions on Marion, IL and on the extent that the report which was issued by this committee states that you have been able to respond. These are a couple of things that I would like to explore later.

Now I yield to my colleague, Mr. Moorhead.

Mr. MOORHEAD. Thank you.

It is good to have you with us, Mr. Carlson.

Mr. CARLSON. Thank you, sir.

Mr. MOORHEAD. We appreciate the work that you are doing.

You know, it looks to me that the time has come almost to where we get a little different attitude than we have traditionally had about prisons and prison populations. We have got a lot of people that are violent, and violent people out there, and things that are of real danger, but at the same time the Federal System at least has got an awful lot of people that are nonviolent prisoners, that are not on drugs. I don't know exactly what percent, but I can't see why they can't just as well be housed in some of these old military facilities that we are tearing down and why we can't get more of this reparative work done than we are, starting at the present time, and why we aren't getting to work on things for the Salvation Army and other people that contribute to society, rather than keeping them in \$40,000 to \$50,000 cells where they are bottled up for a few years. I just wonder what your thoughts are on that.

Mr. CARLSON. Congressman Moorhead, I would agree that there are a number of inmates in the Federal System as well as in the State Prison Systems that do not require maximum security. By our classification system, we today have some nearly 8,000 inmates in minimum security camps such as the one I just sited in Duluth, MN. We acquired the former Air Force base at no cost to the Bureau of Prisons or the Department of Justice; it was surplused by the military. Using a very modest amount of renovation money we were able to convert the facility and now have nearly 500 minimum security inmates in that camp. The same is true in Loretto, PA where we acquired a former seminary and again, with very little cost to the taxpayer, converted it over to what I consider to be a very decent institution.

I agree with your premise and I think that we can continue to do more to find minimum security space for those inmates who do not require the \$40,000 to \$50,000 cells that we have in our maximum security penitentiaries.

Mr. MOORHEAD. About what percent of your population would be nonviolent and nondrug related?

Mr. CARLSON. I would have to supply that for the record. It is difficult to say because we look at only the offense for which they are now committed to Federal custody. Many times they may have

prior histories of violence or drug abuse which are not reflected in the current offense. I will supply that for the record.

[Information to be furnished.]

Currently, the Bureau is housing 8,100 offenders serving terms for violent offenses. An additional 8,800 are serving terms for drug offenses.

Since prior criminal record information on our inmates comes from a variety of federal, state, local and foreign sources, it is incomplete. What we have indicates that a minimum of 14 percent of the offenders serving terms for non-violent offenses have prior convictions for violent offenses.

Another perspective on our population is that at the end of 1984 approximately 11,000 of our inmates had no known prior commitments. Of them, approximately 4,900 had no known prior arrests. Drug law violators and some violent offenders, however, are very likely to be among these populations.

Finally, it is important to note that at the end of 1984 two out of three (or 65,500) federal offenders under supervision were in non-confinement alternatives and an additional 8,200 are now serving terms in Federal Prison System security level one facilities without perimeter security such as Federal Prison Camps.

Mr. MOORHEAD. It concerns many of us that there are people out there who are a danger to society, that there is no room. They get out on parole or probation and there is just not room for them there; and yet, we have people that should be punished, that should go through the system, but to do it in a way that they are more apt to be rehabilitated in a way that they don't cost nearly as much; also, where they set as much of an example of wrongdoing as they would if they would if we kept them in these very expensive cells, where many of them get hurt rather than helped.

Mr. CARLSON. I would agree with you. I think the Comprehensive Crime Control Act establishes that prisons are a scarce resource and it becomes an allocation issue. How do you allocate the scarce resource? That is what the Sentencing Commission has been charged to do, and I would hope that they would take prison capacity into consideration in their deliberations.

Mr. MOORHEAD. I am very glad to read about this Halfway-House Program that you have, because it is obviously important that many of these people be taken out of the atmosphere that they are in in the prisons and get readjusted to a more normal life.

Mr. CARLSON. Thank you, sir.

Mr. MOORHEAD. I appreciate the work that you are doing.

Mr. KASTENMEIER. The gentleman from California.

Mr. BERMAN. Thank you, Mr. Chairman.

I am particularly interested for this purpose, in the relationship to the Bureau of Prisons in the running of the detention centers. You referred to the Oakdale facility. Is the Bureau of Prisons involved simply in the finding and construction of that facility, or are you going to be operating it after it is completed?

Mr. CARLSON. This will be the first time the Bureau of Prisons will operate a detention facility for immigration detainees. We are building the institution and are also going to manage it and be responsible for the overall administration.

Mr. BERMAN. I take it that the initial capacity of that facility is going to be 1,000 detainees, is that true?

Mr. CARLSON. That is correct.

Mr. BERMAN. Do you think that there is a potential for an expansion to 5,000?

Mr. CARLSON. I would certainly hope not. It is not our plan to expand to 5,000. I think that the 1,000 we now have under construc-

tion is, at this point in time, the size that we are capable of managing.

Mr. BERMAN. Is it going to simply be a facility for new detainees or are they going to transfer the detainees from premises that are overcrowded and detention camps that are now run by INS?

Mr. CARLSON. I can't speak for the Immigration Service and their plans at this point in time. However, my understanding is that the detainees who have been arrested throughout the country and are being housed in local jails awaiting deportation will be taken to Oakdale for processing until such time that they can physically be deported from this country. It should relieve the overcrowding problem in a number of local jails throughout the country.

Mr. BERMAN. Run that by me one more time.

What is your theory on why it would relieve the overcrowding?

Mr. CARLSON. I believe it will to some extent because, at the present time, when Immigration makes an arrest detainees are housed in local jails under contract until such time that they can be deported. Oakdale will serve as a staging area so that these detainees can be moved almost immediately after apprehension, go through the formalities of the deportation process, and then be deported directly from the facility. Theoretically detainees should be staying in local jails for shorter periods of time than they do today.

Mr. BERMAN. I gather Oakdale is an area of very few immigration lawyers or immigration specialists. How do you envision the detainees getting the rights available to them obtaining counsel—

Is the Bureau of Prisons policy the same as INS policy with respect to accessibility to counsel and provision for counsel in the running of this facility or are you making plans for that?

Mr. CARLSON. The Immigration Service will take care of those arrangements. We will have nothing to do with the hearings that take place. That will be the responsibility of the Immigration and Naturalization Service.

Mr. BERMAN. Even in terms of the construction and the planning of the facility, unlike other prisons which would be run—let me put it a different way.

What is the coordination process? You are going to be maintaining a facility and INS is going to have a great deal to do in terms of hearing officers, attorneys, the deportation and transportation—

Mr. CARLSON. That is correct. They will have staff on site who will be responsible for all of the immigration functions. We will run the detention aspect but will not have responsibility for the hearings that will take place.

Mr. BERMAN. Is Oakdale being constructed to comply with the Bureau of Prisons detention standards?

Mr. CARLSON. Yes, it is, sir.

Mr. BERMAN. Do you know how many of the beds at Oakdale will be in dormitories?

Mr. CARLSON. Virtually all of them will be in dormitories.

Mr. BERMAN. One thing that we noticed was that the predicted cost of this facility is significantly less than other detention facilities that the Bureau of Prisons constructed. Why is that?

Mr. CARLSON. It does not require the same degree of security that other types of detention facility require for felons being held awaiting appearance before U.S. district courts. From our experience, the alien population is not a particularly violent population. They are not escape prone and do not require the same degree of physical security that we would have to build into a typical jail operation.

Mr. BERMAN. One of the problems that I noticed in a detention center I visited was the lack of private areas for attorneys to meet with detainees. Is Oakdale being constructed with that concern in mind?

Mr. CARLSON. I would have to supply that for the record. I believe it is, but I am not that familiar with the design.

Mr. BERMAN. If possible, I would be interested in any information regarding the number of private cubicles for the attorneys to meet with the detainees.

Mr. CARLSON. I will be glad to do that.

Mr. BERMAN. Mr. Chairman, I have other questions, but we all do.

Mr. KASTENMEIER. I am noting that the second bells have just rung for a vote on the House floor. We are going to recess for 15 minutes, in order that members may go vote and, hopefully, return. Then, at that time, Mr. Kindness will be recognized. The committee stands in recess.

[Recess.]

The committee will come to order.

When we recessed we were hearing the Director of the Federal Bureau of Prisons. Pending the arrival of Mr. Kindness, would Mr. Coble, the gentleman from North Carolina, like to ask questions?

Mr. COBLE. Mr. Carlson, thank you for your presence here today and also your testimony.

I would like, Mr. Chairman, merely to reiterate Congressman Moorhead's comments concerning the cost-effectiveness of at least utilizing those who have been convicted of nonviolent crimes. As you pointed out, and I am sure, that there are inmates who have been convicted of nonviolent crime, who could be confined in less strict or less secured facilities.

I am concerned, sir—and perhaps your statement reveals it, I have not seen it if it does—what is the average cost to house Federal prisoners per year?

Mr. CARLSON. Congressman, it is presently \$36 per inmate per day, which translates into \$13,200 per year. That is an average of all 45 institutions.

Mr. COBLE. And I believe you said, in response to Congressman Moorehead's comments, that you would assemble information and make it available to us for the questions to be posed concerning inmates that had been convicted of nonviolent crimes and the possibility of housing them as he proposed, did you not?

Mr. CARLSON. Yes we will, certainly.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. KASTENMEIER. I yield to my colleague.

Going to the question of Marion, IL, is it an institution still, I gather, in lock-down nearly 18 months later?

Mr. CARLSON. Mr. Chairman, I would not say that it is in a lock-down situation. It is not the same as immediately after the three homicides. We have one unit which is now operating in a comparatively normal prison context. We have another housing unit which is one step below and which provides inmates with greater opportunities to be out of their cells. The bulk of the inmates, it is true, are confined in their cells for the majority of the time during the day.

Mr. KASTENMEIER. There was a report issued which made a number of suggestions relating to stress management, staff management for staff and then questions as to what options might be available.

At least 12 months ago or so, we had considerable representatives of staff from Prisoner Rights Organizations and from others who were concerned generally about the condition at Marion. As the Director knows, we commissioned the report to us which we have shared with you. Among other things it suggested that in a longer term—granted you have many other problems—the difference in prison architecture with respect to inmate control and layout, more flexibility such as the Oak Park might be alternative ways to proceed from the current situation at Marion.

Do you have any comments about that report and some of its specific recommendations?

Mr. CARLSON. Mr. Chairman, we have provided a written response to the committee which we will update in the near future and which will provide you with additional information as to the manner in which we have followed some of the recommendations.

I stated in my written response that we were generally impressed with the recommendations. I think that the authors did a good job in describing the institution and the type inmates that we have confined there.

We are pursuing some of the recommendations. The steps I enumerated, in terms of the two units that have been opened, are consistent with the report's recommendations. Some of the other points made, such as the one on digital searches, are things we are still looking at. If we can find another method to accomplish the search of an inmate who chooses to hide contraband in that fashion, we would certainly use it. It is something that is distasteful for staff as well as inmates. Up to this point in time, however, we have found no substitute for the digital search.

Mr. KASTENMEIER. Are you also contemplating any other alternatives to your continuation of Marion's present form as a maximum security institution, in more or less the same management and coach, either with respect to movement of inmates or any other control mechanism that is being applied to prison population?

Mr. CARLSON. Mr. Chairman, as you know, the level of violence at Marion has gone down since we imposed the lock-down after the tragic murders of the two officers and the subsequent murder of another inmate. Since that time, the staff has made a number of modifications to the program. We will continue to make modifications as we gain experience and as the staff feels comfortable with changes. I think we have made substantial progress in making it more relaxed than it was in October 1983.

On the other hand, I do not envision that Marion will ever return to the point prior to the incidents because of the type of inmates that we have confined there. Today, for example, we have 358 inmates in the institution out of some 34,000, which is less than 1 percent of the total inmate population. As you know, these are the most dangerous, the most violent, the most predatory inmates we deal with in the Federal Prison System.

I submit again, Mr. Chairman, that the reason the other 44 institutions operate as well as they do with major overcrowding is because we have a Marion in the system, a place to take care of those, who by their actions, have demonstrated that they cannot be handled in a regular prison environment.

Mr. KASTENMEIER. Well, it is a dangerous institution. I was impressed, statistically, in our report by the fact that in a less than 18-month period—and you mentioned the 360 inmates—that there were, assaults by inmate to inmate, 355 with weapon and 181 without. This gives us some indication of the violence there. With or without weapons, every inmate has been involved in an assault in the institution on average.

I am going to yield on this point to the gentleman from Ohio, Mr. Kindness, who was recognized before the recess.

Mr. KINDNESS. Thank you, Mr. Chairman. I apologize for being detained in returning to the hearing. Would you believe that I was being lobbied?

Mr. CARLSON. Not on prison matters, I hope.

Mr. KINDNESS. No. And, Mr. Carlson, we appreciate your testimony here today.

There is one aspect here that I would like to pursue just a bit, and that is with respect to the Mariel Cuban detainees that are now in the process of starting to move back to Cuba.

You indicated that 23 we returned to Cuba in February and 28 more in March. And I would like to know whether you believe that that rate of processing in returning those detainees is likely to be increased in the future months, since, obviously, instead of 2 years, at this rate it would take almost 9 years to complete that task.

But are the problems with that processing improving or is the process improving?

Mr. CARLSON. Congressman Kindness, I would certainly hope so. And we are optimistic that they will improve.

The problem has been that the U.S. District Court in Atlanta has enjoined us for moving many of the inmates pending a formal hearing before the court. The matter is now before the eleventh circuit and we are hopeful that the circuit will issue a ruling within the next few weeks. Once that ruling is issued, we think that the entire process can be speeded up appreciably.

We have far more than 51 inmates who are already being returned. As you can appreciate, we would like to return the entire 1,800, but it is going through the court process at this present time.

Mr. KINDNESS. And if the ruling of the court is favorable, is there a likelihood that we could reach the 100-a-month level that is allowable?

Mr. CARLSON. Yes, sir, and we are hopeful that after we have had some experience, we might be able to increase that beyond the 100.

Mr. KINDNESS. Thank you.

Mr. Chairman, I would ask permission to just make one observation, not by way of question: that I, along with others in this subcommittee, are very much concerned with the progress that can be made and should be made and is proposed to be made in the Prison Industry's aspect of the various operations. I believe that there is much good that can be done by the expansion of that function, although what is proposed at the present time is somewhat limited to 1,000 additional participants with 61 positions being involved. I would hope that as the years progress that we can see even more expansion of that program and commend you for the work that is being done.

Mr. COBLE. I share your concerns and assure you that we will expand as we add additional factory space. One of the problems is lack of adequate factory space in some of our institutions. We are adding on at the present time and as those new factory buildings come on line, we will ask for more positions so that we can go beyond the even 10,000 inmates per day that will be employed in 1986.

Mr. KINDNESS. I just want to express my commendations for that progress and hope that we can continue it.

Thank you, Mr. Chairman, and I yield back.

Mr. KASTENMEIER. Thank you.

If I recall correctly, you were responsible for restoring the ability to the Prison Industries to market some of the things that it does to the Government. This was in light of an amendment and another bill which would have taken away from the Prison Industries the option of, I think, manufacturing road signs.

Mr. KINDNESS. Highway signs, yes. My comment is that that fight is not over and it will continue year to year, I am sure.

Mr. KASTENMEIER. Now we would like to recognize Mr. Swindall.

Mr. SWINDALL. Mr. Carlson, I note that on page 3 of your written statement that you state that the Atlanta Penitentiary, once all of the Cuban detainees have been removed, is intended to be restored to its security level five, the institutional level that it had beforehand.

There was a rumor some time ago that in the Atlanta area that that particular facility was going to be closed or phased out, is there any substance to that rumor?

Mr. CARLSON. You are correct that in the late 1970's we did plan to close the Atlanta Penitentiary. As you may recall, the Federal prison population took a dramatic dip during the late 1970's and we had excess capacity for a short period of time. That trend has reversed itself and we now find that we are going to need Atlanta in to the future. We plan to renovate the institution as soon as we possibly can. We have money in this year's appropriation to begin the renovation projects once we get the Cubans out of the institution.

Mr. SWINDALL. So, at this point that entire decision has been reversed?

Mr. CARLSON. That is correct, sir.

Mr. SWINDALL. Another questions that I have is, what use is being made of the halfway house approach?

Mr. CARLSON. Congressman, inmates are transferred to a halfway house for the last, 120 days of their sentence. The purpose is two-

fold. One, it does reduce the population pressure. But, in addition, it provides inmates with an opportunity to find a job and reestablish themselves prior to being released directly to the community.

Today we have, over the 2,400 figure I mentioned in my testimony. We have nearly 2,500 inmates who are in halfway houses, Federal prisoners we are responsible for. We contract with State, local and private agencies for this service. The largest deliverers of the service are the Volunteers of America, for example. They provide halfway house programs in many areas of the country.

Mr. SWINDALL. Do all parolees spend some time in a halfway house?

Mr. CARLSON. Not all, but by far the largest percentage of parolees do. Those that we consider to be particularly violent or dangerous or potentially a serious threat to the community would be excluded. That is only a handful of the total number of inmates being released.

Mr. SWINDALL. Has there been any serious consideration given to, say, taking white-collar type criminals and confining them to halfway house type situations for the entire period of their confinement, rather than in those maximum types of facilities?

Mr. CARLSON. Congressman Swindall, we do whenever the Federal judge recommends that we place a defendant in a halfway house rather than in a regular institution. The problem, is that most Federal judges, believe that the matter of equal justice becomes a factor that has to be considered and they feel that it would be inappropriate to place large numbers of white-collar offenders in a halfway house rather than a traditional prison. If a Federal judge recommends it, however, we in most cases will follow the recommendation.

Mr. SWINDALL. I would like to close by saying that I have been intimately involved in the Atlanta Federal Penitentiary through the Chuck Nolson ministry. And I just wanted to compliment the Director for his support of not just that ministry but a number of ministries that have been allowed into that facility as well as a number of Federal facilities. I presently employ an ex-offender in one of my furniture businesses who was a two-time repeat offender, and I, for one, want to go one the record as saying that I think that that type of commitment within the confines of the prison goes a lot further than a lot of folks, perhaps, understand and certainly individuals like Chaplin Riggs who was once there and is now in Washington. I think they are to be commended for their part in the rehabilitation process.

I just wanted to extend that, and yield back.

Mr. CARLSON. Thank you, sir.

Mr. KASTENMEIER. Mr. Carlson, with respect to the issue of privatization, which has recently made some public attention, what statutory authority, if any, does the Bureau have to privatize the operation of its prisons?

Mr. CARLSON. Mr. Chairman, we have the statutory authority in our enabling legislation in title 18 to contract with State, local or private agencies for the care and custody of offenders. I think the enabling legislation gives us that authority. That is our interpretation.

Mr. KASTENMEIER. You think it contemplated the entire prison facility being privatized in the sense of giving you authority to so commission a facility or dedicate it for private purposes?

Mr. CARLSON. Mr. Chairman, as you know, I am not an attorney. My gut reaction would be that we would not be able to privatize one of the existing 45 institutions. What I was referring to was a contract with an existing privately operated facility, which we have done in one instance in the state of California for youthful offenders. It is a small facility that houses 60 inmates. I do not think we have the authority and as Director, I would not contemplate contracting out to the private sector for the operation of one of our regular institutions.

Mr. KASTENMEIER. Have you considered, from a policy standpoint in terms of looking down the road a couple of years, any private programs other than the California program in which you would resort to private contracts for the care and maintenance of prisoners?

Mr. CARLSON. Mr. Chairman, the only other contract we have for a regular institution is with the Immigration and Naturalization Service, for a facility operated for alien detainees in Houston, TX. That is a specialized type of inmate population that we deal with in the facility. The inmates are aliens serving short sentences prior to their deportation.

Congressman, my reaction is that I am somewhat skeptical of the private sector's involvement in corrections. I certainly have not made a firm decision, but I am not one who is going to get on the bandwagon and say that the private sector can solve all of our problems over night. The problems are serious and I want to have far more experience before I would launch into some massive campaign to use the private sector to operate prisons.

Mr. KASTENMEIER. I hope you would continue to share your views on that question with us and we with you. I think because I am also somewhat skeptical, particularly with the Federal system, the private projects have to see whether it is working out and whether certain constitutional and other issues arise with respect to private authority over incarcerated individuals. I think that it might pay to watch what happens in certain State systems? It is at least something which we may in due course have to respond to.

Mr. CARLSON. I certainly share your concerns and I might add that we will watch the State projects closely and find out what the end result is. But, at this point in time, I do not think that it is a panacea that will solve all of our ills, by any stretch of the imagination.

Mr. KASTENMEIER. One last question before I turn it over to my colleagues for any additional questions that they might have.

Under the new sentencing system that the Congress enacted, the amount of good time is reduced and good time will, in fact, vest, as I understand. There are other changes. The abolition of the Parole Commission will pose certain changes as far as options that you have and it has in the context of severe overcrowding releases. Have you considered this element in terms of what it means to you in terms of the administration of managing the personnel and how you might have to respond rather quickly in the event of under calculations made of intake or of overcrowding?

Mr. CARLSON. Mr. Chairman, we obviously have considered the impact of the Sentencing Commission, as I eluded to in my earlier remarks and also in my testimony. The problem, as we recognize, is that until the Commission comes out with its initial set of guidelines, we have no way of knowing how they are going to respond to what I consider the intent of the Congress—that prisons are to be viewed as a scarce resource and allocated accordingly. I would comment on the good time provision. I think that the virtual abolition of good time is not going to have any impact at all.

Good time is not the carrot we once thought it was. We have other methods by which we can work with inmates in terms of providing them opportunities to better themselves while in prison. I do not think that the abolishment of good time is going to have any impact.

I support the general concept of truth in sentencing. When a judge imposes a sentence, it means what it says. It does not mean rather than 25 years, 3 years. It means that when a judge imposes a sentence it is going to be just that. I think that will clarify the intent of both the Congress and the courts when sentences are imposed.

Mr. KASTENMEIER. In terms of managing and predicting prisoner load, it does not make it easier for you?

Mr. CARLSON. Until we see the guidelines, we have no way of knowing what the impact would be.

Mr. KASTENMEIER. The guidelines will give you a one-time information on the impact.

Mr. CARLSON. We can project in the future based on past experience with the numbers of offenders who would fit into the guidelines.

Mr. KASTENMEIER. You may be able to predict somewhat better but you will not be able to respond if your prediction is wrong. You won't have the flexibility.

Mr. CARLSON. No, I would agree with you on that point. On the other hand, I am sure that you would agree that we do not want to build more prison space than we need. That is the dilemma that we are in. It is a Catch-22. We recognize that there will be more inmates, but we certainly do not want to spend needless taxpayer dollars to build additional prisons if, in fact, they are not needed.

Mr. KASTENMEIER. Most of your 10,000 spaces are overcrowded at the moment. I don't think that that is a contingency that you have to fear in the near future.

I yield to my colleague from Ohio, Mr. Kindness.

Mr. KINDNESS. Thank you, Mr. Chairman. I have no further questions.

Mr. KASTENMEIER. Mr. Swindall.

Mr. SWINDALL. I have no further questions.

Mr. KASTENMEIER. Mr. Coble.

Mr. COBLE. I have no further questions, thank you.

Mr. KASTENMEIER. We thank you again for your appearance. We know that you have a very difficult job. I think that you have done an outstanding job in the years that you have been Director.

Obviously, we have a number of other questions and we would like to raise them with you, rather than prolong the hearing here today, by letter and letter response. Some other questions we would pose I think you might be able to answer later more effectively, because you will have more information than you have as of today.



U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 6, 1985

Honorable Robert W. Kastenmeier
Chairman
Subcommittee on Courts, Civil Liberties
and the Administration of Justice
Committee on the Judiciary
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Enclosed are the answers to the original supplemental questions from the Subcommittee following the Bureau of Prisons authorization hearings, as well as the answers to the additional questions received from the Subcommittee by letter dated April 11, 1985.

If you have any questions regarding these materials, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Philip D. Brady".

Philip D. Brady
Acting Assistant Attorney General

Enclosures

Federal Bureau of Prisons
Additional Questions for the Record
from

Robert W. Kastenmeier, Chairman, Subcommittee on Courts,
Civil Liberties and the Administration of Justice

1. Last year the Congress added \$250,000 for a legal assistance program. This sum was in addition to a sum of \$100,000 already available. The Bureau has declined to spend this money. How can you justify this in light of the following:

1) A 31% increase in the number of inmates since 1981, and an increase in non-English speaking inmates;

2) 31 BOP facilities are without any organized legal services program (13 institutions are served by law school programs with an average grant of about \$8,000);

3) A constitutional obligation to provide access to the courts --- which may include access to lawyers (see Hooks v. Wainwright 536 F. Supp. 1330 (M.D. FL, 1982) (court holds that access includes attorneys, in part, because of inadequate law libraries and many inmates who are non-English speaking or illiterate).

Answer: In 1985, Congress added \$250,000 to the existing budget of \$100,000 for legal assistance programs for inmates. The Bureau of Prisons recognizes the constitutional right of inmates to have access to the courts. The access is assisted through legal research materials which are purchased by the government, at a level of \$185,000 for 1985, for inmate law libraries, and through recognition of inmate-to-inmate legal assistance. Those are the types of help which are required by court decision. In addition, since the 1960's, the Bureau of Prisons has attempted to establish at each federal institution a legal assistance program for indigent inmates who are not able to do their own legal work. Typically, these have been programs conducted through a clinical program operated out of a nearby law school.

It is not possible to start up new programs instantaneously. Immediately after the increased funding was provided, staff were advised to try to establish a program at each facility where one was not already underway. As a result, there are five new schools where programs later this year are a good possibility, and other schools where contacts have been made. The five new locations would be New York, Otisville, Atlanta, Tallahassee, Bastrop). For existing programs, a commitment of \$106,000 was made for the current fiscal year.

2. The BOP has experienced a 31% increase since 1981 in inmate population. You have also seen a 10% increase in 1983 over 1982 and predict that 1984 commitments will be at a similar level. Finally, we have been told by the U.S. Attorneys and the Marshals Service to expect a "sharp increase" in prosecutions and convictions, in part, as a result of the Comprehensive Crime Control Act. Despite all these indications you are predicting only a 2% increase in the prison population. This prediction seems unrealistic. Moreover, even with this low population projection you are "building" in a substantial --21%-- degree of overcrowding. Won't these unrealistic projections force even greater overcrowding within a few years?

Answer: The Federal Bureau of Prisons has requested a supplemental appropriation for the current fiscal year which will provide funding for an increase in the average daily population from 31,533 (the amount currently funded) to 32,930, an increase of 4.4 percent. For 1986, an increase of 2.6 percent is requested for an average daily population of 33,790. The Bureau's population projections, traditionally, have been intentionally conservative to insure that funds are not needlessly expended in constructing unnecessary prison capacity. Even though we fully expect that the Comprehensive Crime Control Act of 1984 will eventually further increase the inmate population, it is not possible at this time to estimate the 1986 or longer term impact of this Act for two reasons. First, for the several new federal offenses created by the Act, we must wait for the full implementation of investigative and prosecutorial guidelines and identification of resources directed at these crimes. Secondly, the sentencing reform provisions of the Act will probably have the most significant long term impact on the inmate population level. Since the new Sentencing Guidelines Commission does not submit its recommended guidelines to the Congress until 1986, it would be premature for the Bureau to make predictions at this time. We will continue to collect and analyze data in order to provide predictions of the impact of this Act as well as other Criminal Justice activity on the Federal Prison System.

3. Under the section 4205(g) the Director of the Bureau of Prisons is authorized to move Federal District Courts for reduction of sentence. It is my understanding that you have been instructed not to make these motions in cases where the Parole Commission has certified that the judicially imposed minimum is disparate (that is, at least six months more than the Parole Commission's guidelines). How can you reconcile this policy with the need to reduce overcrowding and the Administration's professed interest in reducing sentence disparity?

Answer: It has been the Bureau's policy using section 4205(g), from the time it was enacted in 1976, to approach the courts on a careful basis, when the facts of the individual case warranted the extraordinary consideration allowed by this statute. We have not been instructed not to make such motions, on the cases referred by the Parole Commission. Those cases have been individually reviewed; motions have been submitted in deserving cases, but not in those cases where there were factors justifying more serious sentencing.

4. What statutory authority, if any, does the Bureau have to privatize the operation of prisons?

a) Would you agree that the use of private operators in a prison context raises troubling Legal issues (such as the right of private persons to use force, to deprive inmates of liberty --- i.e. good time, and public accountability) which should be resolved by Congress before you enter into such agreements?

Answer: The Attorney General has broad authority, in 18 USC 4082, to designate any appropriate facility, whether federal or otherwise, for the service of federal sentences. It is true that there are significant issues, such as use of force and other conditions of care provided, which must be addressed in the contracting for such services by private agencies. This is not a wholly new experience, however, since contracting has been used for the placement of lower security inmates in private facilities, particularly contract Community Treatment Centers, with the knowledge of Congress, for many years. The Bureau's approach to private contracting has been and will continue to be cautious and limited to special situations where the contractor satisfactorily demonstrates the ability to provide suitable and appropriate facilities and services. A good example of

this is a contract we currently have with Eclectic Communications, Inc., for housing approximately 60 low security Youth Corrections Act offenders at a facility in LaHonda, California. The recent repeal of the Youth Corrections Act (YCA) will reduce and eventually eliminate the Bureau's YCA population. The decision to contract for the housing of these YCA offenders has enabled the Bureau to increase capacity for regular sentenced offenders without the need to acquire additional permanent space. Operations at the contract facility are carefully monitored by Bureau staff.

5. Last year this Committee succeeded in adding \$2 million to your budget for Community Treatment Centers, yet you declined to spend this money. Why?

Answer: The Bureau's 1985 budget request of \$29,113,000 for contract Community Treatment Centers (CTC's) reflected an increase of nearly \$900,000 from the 1984 appropriation level and provided, as stated in the budget, resources sufficient to place all eligible inmates in a CTC program for an average stay of 100 days. Recent reductions in some contract CTC rates reinforce the validity of this projection and in all likelihood will result in an increase in the average length of stay. In future budget requests, the Bureau plans to increase the average length of stay in CTC's to 120 days.

6. Under the new sentencing system Congress enacted last Congress the amount of good time was reduced and good time will vest. Doesn't this system mean that you will have very little control over an inmate at the end of a sentence? For example, you may have only a few days of leverage over the inmate during the last month. Therefore, you will have less influence over an inmate's release date than you do today. Will this cause discipline problems?

Answer: It is impossible to predict whether the vesting of good time will cause additional discipline problems. It is true that at the very end of a sentence there will be comparatively little good time to withhold. However, there is no agreement among correctional workers as to whether the threat of withholding good time is a significant tool to reduce misconduct. It should be remembered also that the contrary practice, which the current law allows, provides no control over an inmate's behavior at the very beginning of his sentence, when there is no good time yet earned, and a constantly increasing amount of good time being available, until there is a large amount which can be forfeited at the end of the sentence.

7. With the abolition of the Parole Commission, how will the prison system respond quickly to overcrowding?

Answer: Fortunately, the Bureau of Prisons traditionally has been able to utilize planned responses to overcrowding. The Parole Commission has been a planned release mechanism available to the Federal Prison System.

Now, with the adoption of the Crime Control Act and the eventual phaseout of the Parole Commission, we will be working closely with the new Sentencing Commission. With regard to overcrowding in particular, the Act does include a provision requiring that the Sentencing Guidelines be designed to minimize Federal prison overcrowding. The Act also requires that the Sentencing Commission and the Bureau of Prisons perform an analysis with recommendations concerning the maximum utilization of resources to deal effectively with the Federal prison population.

Additionally, the Bureau intends to increase the use of Community Treatment Centers as well as continue to expand our capacity usage through surplus property conversions, expansion of existing facilities, and new construction.

In summary, the Act requires and the Bureau fully intends complete cooperation with both the Sentencing Commission and the Congress to assure that unreasonable Federal Prison System overcrowding does not occur.

8. In light of the increased incidence of overcrowding, why shouldn't we have a plan for reducing the number of state inmates in the custody of BOP?

Answer: As of April 16, 1985 the Bureau was housing 941 state inmates, three percent of our total population.

In recent months, the Bureau has declined several requests to house state and local prisoners from Washington, D.C., West Virginia, Florida, and Nassau County, New York. In addition, we have requested a number of states to return their prisoners. The unprecedented level of overcrowding in the Federal system severely limits the assistance we can render to state and local authorities burdened with similar overcrowding. Nevertheless, we believe the Federal government should continue to assist the states on a case by case basis, particularly states lacking the necessary resources to handle extreme management problems as well as those that provide reciprocal assistance to the Federal government. We will continue to carefully screen all requests and accept only those where we believe it is clearly in the best interests of the agencies involved.

9. What relief can inmates obtain for inappropriate classification or inappropriate placement after classification?

Answer: Initial designations are generally made at the Regional level. Some special cases such as WITSEC are made at the Central Office level. The receiving institution reviews the designation form and reports any apparent errors to the Regional Designator who made the designation.

Institutions can request redesignation of an inmate. Generally, transfers are initiated as the result of a change in the security and/or custody needs of the inmate. If the new facility is closer to the inmate's release area, a transfer agreed to by the Regional Office is mandatory for the inmate. If it is farther from the release area, the inmate may refuse to go to a less secure facility unless there is a specific management need as determined by the Regional Designator. If the move is to a more secure facility, the inmate has no choice.

Inmates have their security levels and custody classifications reviewed at least once a year. Some are reviewed every six months. At those reviews, inmates can appeal their classifications to their unit staff.

If the unit staff concur with the inmate, then a request for redesignation is forwarded under the Warden's signature to the Regional Designator for consideration. If redesignation is denied, the inmate can then file a request for Administrative Remedy. In calendar year 1983 (the last year for which data are available) there were 81 inmate appeals of custody classification. Of this number, 72 were denied and 9 were granted.

In addition to the Administrative Remedy process, inmates may ask the U.S. District Courts to grant relief.

10. If the Public Health Service is defunded how much will it cost BOP to replace these medical services?

Answer: The replacement of Public Health Service (PHS) medical personnel with Civil Service medical personnel would require no additional funds since the Bureau already pays for the services provided by the PHS.

11. You are projecting a new facility in the Northeast. What sites are under consideration?

Answer: Numerous sites are being considered along the Northeast corridor from New York State to Washington, D.C. Presently two sites in New Jersey are being evaluated. These are Fort Dix and Fairfield Township, New Jersey.

12. The National Institute of Corrections received additional funds last year, yet you are not seeking these funds now. Why not? A review of how this money will be spent indicates that these funds will be used to meet urgent correctional needs (see NIC Report).

Answer: In March 1985, the National Institute of Corrections publicly announced 16 programs to address the critical needs in the 1984 supplemental appropriation. Assistance applications are currently being solicited; however, the funds will not be obligated until the end of August, 1985, and will not be fully expended until October, 1986. Therefore, the impact of these programs will be unclear for some time. Prior to any future funding requests, we would first need to assess the impact of these programs. The Institute did not view the Congressional supplement as an ongoing appropriation.

13. Have the medical facilities of all the BOP facilities been accredited by the Joint Commission on Accreditation of Hospitals (JCAH)? If not, why not?

Answer: The four medical referral centers of the Federal Bureau of Prisons (Springfield, Lexington, Butner and Terminal Island) are accredited by the JCAH. The remaining institutions provide either infirmary or ambulatory care only, not hospitalization. It is inappropriate to seek JCAH accreditation for other than Bureau medical referral centers. Once in full operation, the new Federal Medical Center at Rochester will make application to JCAH for the accreditation process.

14. Would you like to have the Public Health Service continue to serve the BOP in remote locations or under certain circumstances -- e.g., for dental care? What is the Administration's position?

Answer: Yes. the Bureau has been extremely satisfied with the quality of medical services provided by the PHS.

The Administration's position is that PHS Commissioned Corps officers should be assigned to the highest priority medical needs within the Department of Health and Human Services.

15. During FY 1985 Congress funded 200 additional positions for correctional officers at existing BOP facilities. This subcommittee had received evidence from the AFGE union that possibly 400 such positions were needed. What number of additional positions for existing facilities do you believe you need during FY 1986 to ensure adequate security and to prevent burnout by staff? (Last year officers said they often couldn't take regular or emergency leave since staffing levels were so low.)

Answer: The additional 200 correctional officer positions authorized by the Congress in 1985 provided significant relief for staffing security posts at existing institutions. The 169 additional security positions requested for activating new facilities are adequate to the Bureau's needs in 1986.

16. Do you offer stress management to your correctional officers at each facility? If so, how often does an officer take the course? If not, why not? (Correctional officers have asked for this assistance --- particularly in maximum security facilities such as USP Marion.)

Answer: All new employees receive training in stress management in the Bureau's introductory training at Glynco, Georgia. Although stress management is not repeated in the refresher training sessions, field training staff are encouraged to include such training in their institutional training program agenda.

17. How many camps are now operational, and what number of inmates do they hold? How many of them include women inmates? Isn't it discriminatory to have no camps available for women? Wouldn't placement of women in some of the camps allow them like the men to be closer to their families? Can you present us a plan for making some camps co-correctional?

Answer: Presently, the Bureau of Prisons operates 18 Federal Prison Camps, 11 of which are satellite camps adjacent to main, higher security level male institutions. These satellite camps constitute support facilities for those main institutions where the inmates work in a variety of maintenance, machine operations, and landscape positions outside the perimeter of the secure facility. Additionally, there are two security level 1 Federal Correctional Institutions plus a minimum custody Federal Correctional Institution in Morgantown that is classified as an administrative institution because it houses Youth Corrections Act offenders.

There is currently a total capacity of 711 security level 1 female spaces including 289 at Fort Worth, 318 at Lexington, and 104 at Morgantown. These three institutions are co-correctional. Currently, we have 907 females classified in security level 1; thus, we have 28 percent more security level 1 females than capacity. However, we have 8,850 security level 1 males, 66 percent more than male security level 1 capacity. Thus, we have a much greater need for additional male security level 1 capacity.

Co-correctional security level 1 Federal Correctional Institutions offer many more correctional programs than do Federal Prison Camps. Federal Prison Camps are primarily minimum custody settings for manual labor. We utilize community treatment centers for pre-release purposes.

We have recently opened minimum custody facilities in Duluth, Minnesota and Loretto, Pennsylvania. We have made them male facilities because, both on a percentage and absolute number basis, the need for male bedspace is more critical. We will, however, continue to consider additional minimum custody housing for female offenders wherever appropriate.

18. I have seen statistics that approximately 70% of any institution's female inmates are mothers of dependent children. Most of them are single parents and heads of households. Thus unlike the fathers who are incarcerated and leave behind a mother caretaker, the mother's incarceration is much more disruptive of the family relationship. You have been supportive of two parenting programs in two co-correctional facilities --- one at FCI Pleasanton (CA) and one at FCI Fort Worth (TX). Using the Prison MATCH model, these programs operate a children's center within the prison for visiting children and provide supportive services to the families and training for the parents. The Bureau has contributed approximately \$20,000 for the Pleasanton program and \$15,000 for the Fort Worth program. However, the Pleasanton program has recently lost approximately \$35,000 in outside funding. Is the program beneficial to the Bureau and to the inmate parents, particularly the mothers? Would you support increased BOP funding to keep the Pleasanton and Fort Worth programs alive? Would you agree that these programs should be replicated in the two other federal prisons in which sentenced women are incarcerated -- FCI, Lexington, Kentucky (co-correctional) and FCI Alderson, West Virginia (all women inmates)?

Answer: The Prison MATCH Program provides a beneficial service to incarcerated parents and their children by reducing the anxiety levels of the parents through its services and by providing constructive activities for the parents and children during visiting hours. We hope that these programs are able to continue and we will continue to support them at a level which is consistent with our other budgetary needs. We believe these programs would be worthwhile additions at FCI Lexington, Kentucky and Alderson, West Virginia.

MR. CARLSON/MR. FARKAS

Have you received adequate funding for educational and vocational training programs? How many inmates are on waiting lists for such programs? Do you have any recommendations for statutory changes related to prison industries?

Answer: The funding for educational and vocational programs is at an appropriate level given the other priority needs of our system. There are small numbers of inmates on waiting lists for particular specialized programs throughout our system. Resources are shifted among programs to meet inmate demand with emphasis on basic education.

At the present time, there are no active proposals to revise legislation related to Federal Prison Industries.

QUESTIONS RE: OAKDALE

1. How does the Justice Department plan to ensure that aliens who are detained in the Oakdale, Louisiana facility are able to have access to immigration attorneys?

Answer: The Justice Department fully expects that ample attorney representation will be available in the Oakdale area and plans to provide every possible opportunity for attorney-client visitation.

2. How many of the beds in the Oakdale facility will be in dormitories? How will you ensure that there are not misunderstandings between different ethnic, cultural and political groups of aliens, many of whom will not speak English and many of whom will have different dialects?

Answer: A total of 840 beds will be in 4-man cubicles and 168 beds will be in semi-private rooms. Misunderstandings are common even within homogeneous groupings of individuals. There is no way to ensure that there will not be misunderstandings. We hope to minimize such differences by recruiting and hiring, to the extent practicable, staff with special language skills and knowledge.

3. a) The cost of Oakdale will be \$17 million for 1,000 beds, yet a 50-bed facility costs \$35 million. How do you explain the discrepancy?

b) You estimate that Oakdale will cost \$10 million a year to operate (i.e., \$10,000/person) which is less than you spend in other facilities. With less money, how can you assume equal programs at Oakdale?

Answer: a) There is no cost discrepancy. The difference represents the real cost difference between a 500-bed Federal Correctional Institution (FCI) with individual inmate rooms and facilities versus a 1,000-bed dormitory-type facility with a large portion of the space double-bunked as indicated above.

b) It is inappropriate to assume "equal" programming between an FCI, where the average sentence may run several years, and an alien detention facility, where the average length of stay is projected at between two and three weeks.

4. Will Oakdale be used for long-term detention? If so, what average period of detention is projected?

Answer: Based upon information provided by the Immigration and Naturalization Service, the average period of time that a detainee will be held at the Oakdale Alien Detention Center will be two to three weeks,

5. Will Oakdale comply with Bureau of Prisons Detention standards?

Answer: The Oakdale facility will be operated in full compliance with Bureau of Prisons detention standards.

6. Will families or children be detained there?

Answer: Only adult males will be housed at the Oakdale facility.

7. The Federal Government has acquired 100 acres adjoining Oakdale. Do you know for what purpose the land was acquired? Will it be used to set up emergency quarters in tents for mass detention of aliens?

Answer: The land was acquired by the Immigration and Naturalization Service (INS) to be operated solely by INS as a "contingency site" in the event of a sudden influx of illegal aliens into the U.S.

Additional Questions from the House Committee on the
Judiciary, Subcommittee on Courts, Civil Liberties
and the Administration of Justice

1. Why did the Bureau of Prisons take the downgrading action on the supervising employees involved in prison industries and maintenance services?

Answer: The classification review of wage supervisor positions in the Bureau of Prisons was initiated at the direction of the Office of Personnel Management (OPM). The purpose of the review was to establish guidelines which both recognized the uniqueness of our wage supervisor positions and ensured consistency in their classification. When the guidelines were developed, they were approved by OPM prior to implementation. Application of the guidelines to approximately 1,200 wage supervisor positions resulted in 74% of the positions being downgraded, 5% being upgraded and 215 remaining at the same grade. Each employee downgraded was afforded the protection of grade retention for two years and indefinite pay retention. Additionally, all were given the opportunity to apply for priority consideration for re-promotion to their former grade.

2. Is it true that only two OPM regional offices wanted the downgrading, but that BOP took it to force OPM to issue a "yardstick"?

Answer: In 1980 and 1981, two OPM regional offices rendered separate but conflicting classification decisions on similar positions. The disparity was due to varying interpretations of the classification standards as they applied to supervisors of inmate workers. The issue was referred to OPM's Washington, D.C. office for resolution of the disagreement. Subsequently, OPM directed the Bureau to conduct the review of wage supervisor positions.

3. Have any of the persons down-graded who resigned since the downgrading, cited the downgrading as a reason for resigning?

Answer: When people leave the Bureau, they are offered an exit interview during which their reasons for leaving are solicited. Since the approved classification guidelines were implemented on January 22, 1984, thirty-nine wage supervisors have left the Bureau and provided us an exit interview. Of these, only one cited the classification downgrade of their position as a reason for leaving.

4. What means does the BOP use to determine the number of correctional officers at a given institution?

Answer: The Bureau of Prisons has established staffing guidelines for its facilities which result from an ongoing full-field assessment of such factors as security level of the institution; the physical size and design of the facility; the planned size and profile of the inmate population; technological improvements; and any specialized demands such as jail units, witness security units, or satellite camps. The guidelines specify the number of positions needed to staff institution posts such as front entrance, control room, housing units, segregation, visiting rooms, perimeter security, activities areas, and special situations. It should be noted that the guidelines are based on institution population levels at rated capacity.

5. Why is there such a large range in the ratio of officers to inmates at institutions of the same security levels?

Answer: As indicated by the data below, the range in the ratio of officers to inmates at institutions of the same security level is not large. The ranges that do exist are largely attributable to differences in institution design, specialized housing requirements, and adjacent satellite camps.

| | <u># of Inmates</u> | <u># of Correctional Positions</u> | <u>Staff-Inmate Ratio</u> |
|-------------------------|---------------------|------------------------------------|---------------------------|
| <u>Security Level 1</u> | | | |
| FPC-Allenwood | 609 | 22 | 1:27.7 |
| FPC-Big Spring | 485 | 25 | 1:19.4 |
| FPC-Boron | 312 | 22 | 1:14.2 |
| FPC-Duluth | 411 | 27 | 1:15.2 |
| FPC-Eglin | 767 | 26 | 1:29.5 |
| FCI-Fort Worth | 822 | 73 | 1:11.3 |
| FCI-Lexington | 1,273 | 103 | 1:12.4 |
| FPC-Montgomery | 458 | 26 | 1:17.6 |
| <u>Security Level 2</u> | | | |
| FCI-Danbury | 1,004 | 75 | 1:13.4 |
| FCI-La Tuna | 742 | 84 | 1:8.8 |
| FCI Safford | 288 | 31 | 1:9.3 |
| FCI-Sandstone | 707 | 75 | 1:9.4 |
| FCI-Seagoville | 610 | 58 | 1:10.5 |
| FCI-Tallahassee | 784 | 87 | 1:9.0 |
| <u>Security Level 3</u> | | | |
| FCI-Ashland | 797 | 95 | 1:8.4 |
| FCI-Milan | 940 | 102 | 1:9.2 |
| FCI-Otisville | 686 | 97 | 1:7.1 |
| FCI-Raybrook | 792 | 91 | 1:8.7 |
| FCI-Terminal Island | 960 | 112 | 1:8.6 |
| FCI-Texarkana | 880 | 83 | 1:10.6 |
| <u>Security Level 4</u> | | | |
| FCI-Bastrop | 600 | 97 | 1:6.2 |
| FCI-El Reno | 1,386 | 142 | 1:9.8 |
| FCI-Memphis | 624 | 104 | 1:6.0 |
| FCI-Oxford | 616 | 120 | 1:5.1 |
| FCI-Petersburg | 723 | 103 | 1:7.0 |
| FCI-Talladega | 616 | 100 | 1:6.2 |
| USP-Terre Haute | 1,445 | 168 | 1:8.6 |
| <u>Security Level 5</u> | | | |
| USP-Lompoc | 1,743 | 166 | 1:10.5 |
| USP-Leavenworth | 1,364 | 195 | 1:7.0 |
| USP-Lewisburg | 1,488 | 169 | 1:8.8 |

Security Level 6

| | | | |
|------------|-----|-----|-------|
| USP-Marion | 505 | 214 | 1:2.4 |
|------------|-----|-----|-------|

*Institutions not fully operational and administrative institutions without specific security level designations are not included.

6. Has the BOP had to abandon posts because of lack of officers?

Answer: Bureau institutions are presently authorized 217 positions less than what is indicated by its staffing guidelines. As discussed in question 4 above, the staffing guidelines are based on rated capacity and most institutions are crowded significantly beyond capacity, increasing the demands on institution security staff. Basic needs such as providing 24-hour coverage of housing units and exercising inmates in segregation, detention and control units have become more critical. Staff shortages have dictated the use of costly overtime as well as the use of other institution staff, i.e., counselors, case managers, teachers and accountants, for security functions at some of our institutions on a temporary basis. In addition, certain institution correctional posts may be temporarily left vacant on occasion. This decision is delegated to the respective Chief Executive Officer and this option is used only if the institution's security can still be maintained.

7. Has the BOP had to force overtime on officers to man posts?

Answer: Overtime opportunities are offered in accordance with our negotiated agreement with the union. Most often, employees volunteer for overtime. Employees sometimes are directed to work overtime in situations such as institution emergencies or inclement weather. It is our practice to keep directed overtime to a minimum to minimize adverse impact on employee morale.

8. Is the BOP currently employing temporary employees in institutions?

Answer: We employ a variety of temporary employees. Most are non-correctional employees hired for short duration until the completion of projects or other temporary work assignments. In certain instances, we also temporarily appoint employees into permanent positions pending their selection from a civil service register and conversion to permanent status. This latter technique represents an affirmative effort to reduce some of the delays inherent in the federal hiring process. We have thoroughly discussed this approach with the national union representatives and they concur with us that it represents a creative approach to minimizing the length of time certain positions are vacant.

9. Why are these employees not sent to the law enforcement training center, like regular employees?

Answer: Temporary employees who will be employed for a short duration only are not sent to the Federal Law Enforcement Training Center in Glynco, Georgia. Employees hired on a temporary appointment pending conversion to permanent status are scheduled for Glynco on the same basis as regular employees.

10. Are these employees given any training prior to starting work?

Answer: All employees, including those temporary employees hired for a limited duration, are provided 40 hours of institution familiarization training prior to starting work.

11. Are these employees covered by the special death benefits for law enforcement officers?

Answer: In accordance with the provisions of the Comprehensive Crime Control Act of 1984, Section 609-F, the survivors of any law enforcement officer killed in the line of duty, whether on temporary or permanent appointment, are eligible to receive the \$50,000 lump sum specified in the law.

Mr. KASTENMEIER. We hope to continue our work with you on matters concerning criminal justice and the Bureau of Prisons.

Thank you, Mr. Carlson.

Mr. CARLSON. Thank you, Mr. Chairman.

Mr. KASTENMEIER. Now I would like to call the very patient chairman of the U.S. Parole Commission, Mr. Baer.

Mr. BAER. Mr. Chairman, I am very pleased to have the opportunity to appear before your committee concerning the operations of the U.S. Parole Commission. I am speaking for the Commission only and not for the Department of Justice.

Obviously, as you indicated in your opening remarks, the most significant development for the Parole Commission in the 2 years since we last appeared before your committee was the enactment of the Comprehensive Crime Control Act of 1984. As you know, under the provisions of this law, the Commission is abolished and will have no further functions or responsibilities after 1991, assuming that the effective dates included in the law are not changed.

For the present, our chief tasks, as we see them now in reference to the new law, are to discern the impact of the changes on our current operations and to plan for the transition from current practice to the sentencing guideline environment.

And, as you know, Mr. Chairman, the Federal sentencing guidelines, and I might say also State sentencing guidelines, have evolved, for the most part, out of some modification of the Parole Commission's guidelines that were developed back in the early 1970's and which Congress codified in 1976. We were working with people in the Department who are developing a plan for the law and we will be continuing to do so.

There are some sections of the law which need to be looked at and some problems that need to be resolved before the Sentencing Commission and its work is implemented.

I might just mention briefly five or six of these. One, there are the ex post facto consequences for those offenders who will be sentenced after the sentencing guidelines go into effect but whose crimes were committed before that date. These are not adequately addressed in the current law. And similarly, there are ex post facto consequences for offenders sentenced under the old laws in regard to the interim hearings that the present law permits. This relates both to potential advancement and possible retardation of release dates after the Parole Commission is scheduled to go out of business.

A third item has to do with the terms of supervised release under the new law which, in my opinion, are insufficient to provide the public with adequate protection and to deter offenders from post-release misconduct. And similarly, the procedure for handling the violations of supervised release—that is, contempt of court—seems, from where I sit, unnecessarily burdensome and not very cost effective.

Fourth, the provisions for monitoring the use of the sentencing guidelines, again, in my opinion, need to be strengthened to further assure equity and to eliminate unwarranted disparity, which are among the primary purposes of the new act.

And fifth, there is no mechanism to quickly and equitably adjust institutional populations to relieve prison overcrowding.

Sixth, the provision for handling prisoners transferred from foreign countries contains gaps, as do the procedures for supervising certain witness protection cases—that is, the cases that will come to us from the States under the new law.

And, seventh, there are budgetary consequences related to the transfer of Commission responsibilities that are not adequately addressed.

And finally, the provisions for phasing out the Parole Commission contain a requirement that we set the release dates for those who are still in the system within applicable guideline ranges. That means—well, it doesn't take a lot of imagination to know who will be left at the end of 5 years—we will be forced to release all of those within guidelines which will produce for them an early release windfall and perhaps some other consequences that none of us want.

The phaseout of the Commission is our principal concern and I know that you are interested in that. We will be conducting hearings and making release decisions for offenders sentenced under the current procedures for the next 2 years and possibly 3 years.

There are a few highlights that I would like to mention—things that you might be interested in that have been accomplished during the last 2 years.

First of all, the current Commission membership—all nine members—have been appointed by this administration. We have five new members since I appeared before this committee 2 years ago, and two of them—if I may introduce them—are here today. One is Jasper Clay, who is the most recent Commissioner appointed, and Vincent Fechtel. Both of these Commissioners serve on the National Appeals Board.

One word about workload. We hold approximately 16,000 parole hearings a year. We have about 24,000 parolees under supervision in any 1 year. In that connection, Mr. Chairman, I might mention that, last year, we returned to custody 850 Federal parolees who had not yet—and I say yet—committed another crime, but who had seriously violated the conditions of release. Many of those had reverted to the use of drugs, and, under our policy, we revoke parole and return them to custody, feeling that we are really protecting society. Because if we didn't act, that drug user, whose habit may be costing a few dollars a day, if nothing happens, is going to develop a habit that will be costing him \$400 or \$500 a day; and you know where he is going to get the money to pay that.

I would like to mention our new Decision Recording and Monitoring System. Two years ago, I mentioned our efforts with the Sentry system, an automated case information system used jointly by the Bureau of Prisons, the Marshals Service and the Parole Commission. However, that system did not contain any office automation capabilities. And with the advancement of technology and with some other efficiencies in mind, we now have developed a new system which we call the Parole Decision Recording and Monitoring system, or as an acronym DRAM, a minicomputer based system combining data processing with office automation. When it is fully implemented we will be able to carry out word processing functions, both in our regional and central office, together with a research and computer capability.

I would like to mention the Reparative Work Program which is
a—

Mr. KASTENMEIER. May I interrupt?

Mr. BAER. Yes, sir.

Mr. KASTENMEIER. I don't know if we can compliment you or not, because if you are going out of business—for the bringing in of your new automated system, within 6 years you won't be prospectively modernizing or attempting to improve too much, because investment probably won't pay off for your short projected life.

Mr. BAER. Yes, sir, Mr. Chairman. We made the decisions on this equipment and this system early in 1984, and, as you say, we didn't know what was going to happen in October of 1984. So, we were pretty far along.

However, people in the Justice Management Division of the Department, the people who specialize in that, are very interested in seeing what a small agency like ours can do with this new technology.

But, if I may proceed, Mr. Chairman, I did want to mention our reparative work program. There have been some references made previously, made by you and the members of the committee, relative to community service. We are involved in a small pilot project which involves prisoners doing community service at the end of their sentence rather than performing some community service as a part of a probation sentence in lieu of any incarceration. We worked this out with the Bureau of Prisons and with a grant from the National Institute of Justice, which gave the grant to the National Office of Social Responsibility.

What is involved is, if a prisoner commits himself to giving the community 480 hours of what we call reparative work, then we will advance—the Parole Commission will advance—his release date by 60 days. At this point, we have signed off on the first three cases. I think the first person entered the program Monday of this week and there are a couple more going in next week, and we hope to have 300 prisoners in this program at the end of the 18-month project.

Mr. KASTENMEIER. Is this a program that will die also with the expiration of the Commission?

Mr. BAER. When the National Institute of Justice gave the grant, the Director saw several possibilities in this project. We knew that there would be a lot of bugs that would have to be worked out but, if it were successful, he—and that is part of his job—could transmit or tell the States about it. There is a real, ongoing potential here, at least for the States.

I might just say briefly, that, over the last couple of years, we have made some significant rule and procedure changes. We modified the policy which permits probation officers to conduct physical examinations to help in the detection of drug use and also to seize contraband that is in plain sight. For some reason, in the past, our policies didn't permit such seizures.

We have implemented our prehearing procedures, whereby the information that we use to make the parole decision is reviewed in our regional offices prior to the examiner going to the institution to conduct a hearing. This does a number of things. It saves time in some cases when we have to start the hearing and then find out

that we don't have all of the necessary records. It also facilitates parole on the record. The law permits us to grant a parole date on the record without conducting a hearing.

We have also now implemented the provisions of the Victim Protection Act of 1982. But we went beyond what the act calls for. In the spirit of that act and also of the President's Commission on the Victims on Crime, we now allow the victim to be notified of the hearing, and if the victim so wishes, either to appear at the hearing or to present written testimony relative to the offense.

We have also increased the penalties for the biggest drug dealers. We had previously increased the penalties for the big heroin dealers 2 years ago, but during this last 2 year period, we have increased the penalties for the big cocaine dealers. The reason is that the volume of cocaine coming into this country increased tremendously during the last several years. We have also continued some research efforts. These are described in the written statement.

I want to thank you for the opportunity of appearing before this committee again and I will be available for questions.

[The statement of Mr. Baer follows:]

STATEMENT OF BENJAMIN F. BAER, CHAIRMAN, UNITED STATES PAROLE COMMISSION

Mr. Chairman, I am very pleased to have the opportunity to appear before your Subcommittee today concerning the operations of the United States Parole Commission.

Obviously, the most significant development for the Commission in the two years since you last convened Oversight Hearings is the enactment of the Comprehensive Crime Control Act of 1984. Under the provisions of that new law, the Commission is abolished; we will have no further functions or responsibilities after sometime in 1991. During the lengthy debate over sentencing reform, we were afforded the opportunity to present our case for the preservation of the parole release function as well as to argue for retaining many of our other responsibilities in the federal criminal justice system. Congress has acted, however, making some different determinations; we accept that judgement.

For the present, therefore, our chief tasks are to discern the impact of the changes on our current operations and to plan for the transition from current practice to the sentencing guideline environment. Part of that effort involves a careful review of the new law, a scrutiny to identify possible changes to the Act that would, we feel, impact favorably on the transition and would also enhance the operation of the new system. Since the movement for federal sentencing evolved, in large part, from the parole release guidelines developed and used by the Commission since 1973, there exists in the Commission a considerable body of knowledge and "hands-on" experience in the related issues of guideline development and implementation. We are thus in an excellent position to perform this review and to offer recommendations.

Without going into great detail, permit me just to note a few items that we believe require Congressional attention:

(a) There are *ex post facto* consequences, for those offenders sentenced after the sentencing guidelines go into effect, but whose crimes were committed before that date, that are not adequately addressed in the new law;

(b) There are similar consequences for offenders sentenced under the old laws as regards interim hearings and the potential advancement or retardation of release dates after the Parole Commission is scheduled to go out of business;

(c) The terms of supervised release provided in the new law are insufficient to provide the public with adequate protection and to deter offenders from post-release misconduct. And the procedure for handling violations of supervised release—contempt of court—is unnecessarily burdensome and expensive;

(d) Provisions for monitoring the use of the sentencing guidelines need to be strengthened, in my opinion, to further assure equity and to eliminate unwarranted disparity;

(e) There is no mechanism to quickly and equitably adjust institutional populations to relieve severe prison overcrowding;

(f) The provisions for handling prisoners transferred from foreign countries contain gaps as do the procedures for supervising certain witness protection cases; and
 (g) There are budgetary consequences related to the transfer of Commission responsibilities that are not adequately addressed;

(h) The provisions for phasing-out the Parole Commission contain a requirement that we set release dates *within* applicable guideline ranges for prisoners remaining under our jurisdiction. This will provide an undeserved early release windfall for some of the more dangerous and violent offenders.

Let me hasten to add that the above listing is not a self-serving exercise—the problems identified are real and require immediate attention. When Congress does examine these matters, we will be prepared to provide assistance and to offer some alternative solutions.

While the phase-out of the Commission is of principle concern, we still have an important job to do, a job we will be performing for some time to come. For example, we will be conducting initial hearings and making parole release decisions for offenders sentenced to prison for at least the next two, and more probably the next three, years. In this regard, therefore, I would like to highlight briefly a few of the other developments and program achievements of the past two years.

1. COMMISSION MEMBERSHIP

Since I last spoke with you in March 1983, five new Commissioners have been appointed: Vincent A. Fectel, Jr., on November 22, 1983; Helen G. Corrothers, on December 1, 1983; Paula A. Tennant, on December 30, 1983; Daniel R. Lopez, on July 6, 1984; and Jasper R. Clay, Jr., on October 17, 1984. Commissioners Fectel and Clay have been designated to serve on the National Appeals Board and Commissioners Corrothers, Tennant and Lopez serve as Regional Commissioners in the Western, Southeast and Northeast regions respectively. To be more accurate, I should have said *four* new Commissioners because, as you know, Mrs. Tennant served the Commission previously from 1970 to 1977.

2. WORKLOAD

During fiscal year 1983, the Commission conducted approximately 16,000 parole hearings and made about 35,000 parole consideration decisions (including hearings, record reviews and appeals). These workload statistics decreased slightly in fiscal year 1984, with approximately 15,000 hearings and 33,500 parole decisions being made. While the numbers decreased, the overall effort remains constant. We are seeing more serious offenders and more complex drug and fraud conspiracies involving many codefendants. The time necessary to process these cases—their hearings and their appeals—increases in proportion to their complexity. Supervision was provided to some 24,000 parolees, special parolees and mandatory releasees during the twelve month period ending June 30, 1984. And, as a final statistic, permit me to note that yearly we return to prison about 850 individuals for technical violations of parole (e.g., the submission of "dirty" urines or refusal to submit a urine sample). Thus, at the earliest indication of drug abuse, we get offenders off the street before they become heavily involved in new criminal conduct.

We anticipate that our workload statistics will stabilize at these fiscal year 1984 levels and will remain in this approximate range during this and the next fiscal year. The provisions of the *Comprehensive Crime Control Act of 1984* will have no significant impact on our workload for at least two more years.

3. DECISION RECORDING AND MONITORING SYSTEM

When I last appeared before you, I noted the Commission's efforts in SENTRY, the automated case information system jointly used by the Bureau of Prisons, the Marshals Service, and the Parole Commission. Because SENTRY is a data system and has no office automation capabilities, because it does not contain all the data elements we need when we need them, and due to advancements and economies in the computer field in general, we have proceeded to design and develop a parole decision Recording And Monitoring System (DRAM), a mini computer based, combined office automation data distribution system.

With DRAM, we have the capability to automate office procedures, both in the Central and Regional Offices, including word processing, electronic document transfer, workload scheduling and office records management. We have now automated the production of case processing documents. Soon we will be able to instantly retrieve codefendant and other critical information from the Commission's data base

and to monitor decision-making to help assure compliance with statutory requirements.

The capabilities that DRAM has already provided and the functions it will soon perform serve to improve the management of the Commission and the quality and efficiency of our work.

4. REPARATIVE WORK PROGRAM

The Commission has initiated recently a community service concept entitled "Reparative Work Program," a pilot project under which carefully screened offenders will perform work, without pay, which provides meaningful, realistic, and needed service to the community. The work is done while the prisoner is still under Bureau of Prisons custody in a Community Treatment Center. Thus, this project provides a sanction for the offender, but also allows him or her to repay some of the harm done to society. Successful completion of 480 hours of reparative work under the program will be rewarded by a two-month advancement in the parole date, with the resulting savings of critically scarce Federal prison space. The notice of the program was published in the *Federal Register* on January 24, 1985. The program has been undertaken with a grant from the National Institute of Justice and is being implemented with the assistance of the National Office for Social Responsibility (NOSR).

Recently, I signed orders accepting the first two inmates into the project. So far, about one hundred reparative work positions have been identified by NOSR with such agencies as the Volunteers of America, the American Red Cross, The Salvation Army, Goodwill Industries, Jewish Community Centers, and the YMCA. Jobs include loading trucks, janitorial help, answering telephones, sorting donations, and providing services to the elderly. All participants will be closely supervised to insure that their job performance is satisfactory and to assure that they pose no threat to the community. I might add that the level of supervision being provided here is greater than that normally provided to CTC inmates.

James Steward, Director of the National Institute of Justice and I agree that this pilot program has great potential for use in state prison systems.

5. RULES AND PROCEDURES CHANGES

As you know, the Commission continually monitors the rules and procedures we employ to guide and administer our various functions and responsibilities. Changes and amendments are made to reflect new legislative and court decisions, to implement identified efficiencies in case processing and workload management, to clarify ambiguities and oversights, and to take into account changes in the crimes and the offenders that we review in making parole decisions.

Among the significant changes we implemented in the past two years was an addition to our procedures regarding Conditions of Release (28 C.F.R. Sec. 2.40); we established guidelines for the physical examination of parolees for the detection of drug abuse and for the seizure of contraband (dangerous drugs, weapons, etc.) observed in plain view by the Probation Officer in the course of his contacts with the parolee.

Further, we have fully implemented our pre-hearing review procedures whereby prisoners case files are reviewed in regional offices prior to scheduled hearings and tentative guideline assessments are prepared. Such facilities parole on the record [pursuant to 18 U.S.C. Sec. 4208(a)] for an increasing number of prisoners, with a resulting savings of our resources. Not only is this procedure more cost efficient, but, we feel, it also serves to improve the quality of our decision making and check on the reliability of our guideline assessments.

Also, in regard to the implementation of the Victim and Witness Protection Act of 1982, we amended 28 C.F.R. Sec. 2.7 to provide that the Commission would not release a prisoner on his or her scheduled parole date if it appears that the prisoner has the ability to pay a restitution order but has willfully failed to do so. The change required further that each release plan for a prisoner with an unsatisfied order of restitution contain a reasonable program for compliance during parole supervision.

Finally, to more adequately sanction very large scale offenses involving cocaine, the Commission amended its paroling policy guidelines (28 C.F.R. Sec. 2.20) to increase the guideline range for offenses involving 5 kilograms or more of cocaine. Now, major cocaine smugglers and suppliers, whose profit expectations are enormous and whose criminal sophistication and disregard for the law are unusually high, will serve significantly more time before being released on parole or at expiration of sentence.

6. RESEARCH EFFORTS

During the past two years, our research section has completed a number of studies, copies of which I would be happy to provide to the Subcommittee. In addition to again examining the reliability of our guideline applications, research was conducted on the predictive power of the salient factor score with respect to particularly serious criminal conduct. Further, the crime seriousness scales used in the National Survey of Crime Severity were examined to assess their relationship to the U.S. Parole Commission severity index. Also, an extensive bibliography of reference materials was prepared, at the request of the Department of Justice, for use by the newly created Sentencing Commission.

I want to thank you for providing me this opportunity to meet with you. I would be pleased to answer any questions that you or your colleagues might wish to ask.

Mr. KASTENMEIER. Thank you very much, Mr. Baer, for your brief, concise testimony. Your written presentation will appear in the record in its entirety.

I appreciate the eight items that you have cited, which may require Congress to reexamine the Comprehensive Crime Control Act in terms of certain, possibly unintended consequences of the law. But we will have to determine whether what you cited was in fact unintended or intended. We would have to look at the legislative history and do some research on it. Some of them appear to be obvious problems such as, your setting release dates for those prisoners remaining in your jurisdiction. This might result it an undeserved early release windfall for some of the most dangerous and violent offenders.

There is one area you did not discuss; that being henceforth, the Federal courts will have to conduct parole revocation hearings.

In the past we have had elaborate procedures enabling the Commission to conduct parole revocation proceedings in which the process was recorded. What will this impose upon the Federal courts as far as both time and expense?

How much an hour does it cost on the per capita basis to conduct a revocation hearing?

Mr. BAER. Sir, while I can't give you a precise dollar figure, we could supply that for the record if you wanted it. I can tell you that while we adhere to due process requirements of recent court decisions, our hearings are conducted quickly.

We have a panel of hearing examiners who conduct the hearing. They are conducted either upon the parolee's return to prison, after he has been convicted of another offense, or, after a preliminary hearing, he admits the charges. Or, in fewer number of cases—about 340 during the year—we conduct what is called a local revocation hearing. But even there, it is not conducted in a courtroom. It is conducted either in the probation office, if the marshal has the resources to bring the parolee there, or, occasionally, in a jail where the parolee is detained. There are two examiners at these hearing proceedings that lasts maybe an hour; complicated ones last longer. But there are no other persons involved.

Under the new law, the way I understand it, any revocation hearing will have to be handled by the courts as a contempt of court. Without having done a comprehensive cost analysis, it is apparent—just off the top of my head—that it would be about three to four times more expensive, when you consider judges and bailiffs and all the court personnel that must be present. Plus, again the way I understand the law, we use "preponderance of the evidence"

to reach a decision. It is my understanding that the court would use a "beyond reasonable doubt" standard in order to make a decision.

Mr. KASTENMEIER. In terms of impact on the Federal courts, apart from expediency and efficiency, it might behoove us to reexamine this as to whether this would only occur in the wake of the Parole Commission's work or whether it occurs further on down the line.

Mr. BAER. It would apply to the people who are sentenced under the guidelines established by the Sentencing Commission. We are looking down the road to when those people get out. If the judge had imposed a period of supervision in addition to the prison sentence, then revocation of that period of supervision would have to be done by the courts. That is down the road a few years, yes, sir.

Mr. KASTENMEIER. You mention this reparative work program. Do you have the statutory authority to commence the institution of such a program?

Mr. BAER. We have a few lawyers on our staff and I am sure that they wouldn't let the Commission do anything that wasn't legal. Yes, we think that we have statutory authority. First of all, we can't let anybody out before he has reached his eligibility date. Obviously if we are going to advance somebody, it is within that discretionary period.

Mr. KASTENMEIER. I would like to yield to my colleagues.

The gentleman from Ohio, Mr. Kindness.

Mr. KINDNESS. Thank you, Mr. Chairman.

Thank you, Mr. Baer, for your testimony here today. And I particularly would like to pursue the question presented as to what amendments might be necessary to the Comprehensive Crime Control Act and the needs that might arise. And perhaps some of this might very well be pursued beyond this hearing by way of responses, because I think that we may get into some areas that might be a little bit complex and may require research.

But, in the first point raised, ex post facto consequences for offenders who are sentenced after the sentencing guidelines go into effect but whose crimes were committed before that date, I was wondering whether you have had any thoughts as to—well an example we might use to illustrate—

Mr. BAER. Yes, sir. It would be like this.

Assuming the sentencing guidelines go into effect on November 1, 1986 as they are now scheduled. If a person committed a crime—and probably somebody will—on October 1, 1986, under normal procedures that person would be in court 3 or 4 months down the road. If he is sentenced on, say, March 1987, because of the ex post facto law, we would handle that case rather than the Sentencing Commission. In other words, his release would be determined under Parole Commission guidelines rather than under sentencing guidelines. We would give him a hearing rather than his being released by the operation of the sentencing guidelines. From what I understand, the attorneys in the Department have agreed that when the offense occurs is what will determine whether the offender comes under the new sentencing guidelines or whether he will be seen by us.

Mr. KINDNESS. Well, in that event, I am not sure what would be the ex post facto effect. That is the cut off date would determine which way the defendant was treated.

Mr. BAER. Yes, sir.

Mr. KINDNESS. But I am not sure what, then, would be required by way of change in the existing law in order to accommodate.

Mr. BAER. I am not sure that the law on that would have to be changed. But, one thing it has to do with is our planning budgets in future years. I testified before the Appropriations Committee last week that I thought that our workload would not diminish until 1988.

Mr. KINDNESS. The second point made is that there are similar consequences made for criminal sentences made under the old laws as required to interim hearings and the potential advancement or retardation of release dates. We addressed both of those questions there I think.

Mr. BAER. Yes, sir.

Mr. KINDNESS. That the terms of supervisory release provided in the law are insufficient to provide the public with adequate protection and deter offenders from post-release conduct, I think has already been touched on here as to the potential cost involved there. But would you care to expand further on the inadequacy of the provisions for the protection of the public interest?

Mr. BAER. Under the law, the periods of supervisions are 1, 2, or 3 years. It also says the judge may impose these terms; that tells me that the judge doesn't have to impose any supervision at all if he doesn't want to. But it is 1, 2 or 3 years, depending on the class of the felony. Currently, we keep some people under supervision up to 5 years.

The current law says that, if we want to keep somebody past 5 years, we have to conduct a special hearing and make a special finding; we do that in some cases. But, 1 to 2 years, certainly, in my professional opinion, is too short a period for someone to be on supervision, realizing that about half of the Federal prisoners have used drugs before they come in and a certain number of them, from our past experience, are likely to use drugs after they get out. For us, the Government, we need some way of keeping tabs on those people and having close supervision and having some type of testing to determine whether they returned to the use of drugs. Not doing that would not be very wise public policy, in my opinion.

Mr. KINDNESS. I get your point there. But, it is the period of time of supervision that is the principle concern there.

The provisions for monitoring the use of sentencing guidelines, that hits a responsive note, to the need that may, indeed, exist to strengthen that monitoring process, and I am sure that we would welcome any further comments that you might have about ways in which that strengthening might occur, whether here today or—

Mr. BAER. At some future date, Congressman Kindness, we would if you so desire, yes sir.

Mr. KINDNESS. Mr. Chairman, I realize that we are talking about an area that in terms of legislative action would fall under the jurisdiction of another subcommittee, but I think perhaps we could help by providing or assuring the providing of those additional thoughts that could be very helpful indeed.

Thank you Mr. Baer.

And thank you Mr. Chairman. I would yield back.

Mr. KASTENMEIER. It is correct to say that one or more other subcommittees would be interested in this question. However we would, too, because we are interested in the entire corrections curriculum for parole and probation.

I would like to yield to the gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

I just join my colleagues, Mr. Baer, in expressing thanks to you for coming.

Mr. Chairman, I think that I have no questions at this time, thank you.

Mr. KASTENMEIER. I have one or two more questions.

Will the supervision be conducted by the same people, the Probation and Parole Office?

And, will the release be for a period called parole or will the term parole be abolished?

Mr. BAER. I would assume that there would be no more parole. What the newspapers call it is something else, but there would be a period of supervision where the U.S. probation officer would supervise those people, as they do under the present law. The actual supervision would be the same. I am advised that "supervised release" is the term in the law rather than parole. It is "supervised release."

Mr. KASTENMEIER. Under section 4205(g), the Director of the Bureau of Prisons is authorized to move the Federal District Court for a reduction of sentence. It is my understanding that you have been instructed not to make these motions in cases where the Parole Commission certifies a traditionally imposed minimum, that is at least 6 months more than the Parole Commission guidelines. Is this correct?

Mr. CARLSON. No, it is not. We did submit some cases under 18 U.S.C. 4205(g) to the sentencing court, but we have not been instructed never to submit those type of cases. We did screen them and there were some cases which, frankly, we didn't think that they were appropriate. They were very large scale narcotic transactions.

I will say that there is considerable opposition among U.S. attorneys as well as some U.S. district court judges who are trying to use that vehicle to go back and have a sentence changed. Many judges feel that they have considered the facts that were appropriate when they imposed the sentence and did not feel that we should petition the court for them to reconsider it at some subsequent date unless there are some new factors present. As you know, we do submit those recommendations in cases where inmates develop terminal illness or where something significantly changes regarding the offender during the period of incarceration of which the judge was not aware. But where there are not new facts, we feel, in most cases, that it is not appropriate to go back to the court.

Mr. KASTENMEIER. Mr. Baer the last time you testified, you indicated that the Parole Commission could change its guidelines and

provide a centralized response to prison overcrowding. Do you have any such change under consideration?

How would such a system be implemented?

Mr. BAER. To answer your first question, I might say that, about 2 years ago, the Commission made an effort not to be changing its rules, as some of the probation officers thought, every other day. We made a concerted effort to make policy changes only once a year.

Our next meeting will be a quarterly meeting and we will consider revisions to the guidelines. It is possible, as we do from time to time, that we will revise our guidelines, as I indicated in my testimony. We revised them upward, relative to the large scale heroin and cocaine dealers. The Commission does have the capability to revise the guidelines downward if that seems to be the best public policy at the time.

I should mention, Mr. Chairman, that such revisions are not the decision of the Chairman of the Commission; they are decisions of the Commission as a whole, since revisions are policy matters.

Mr. KASTENMEIER. In conclusion I would like to urge you or your counsel to particularize the several exceptions that you have taken to the implementation of the Comprehensive Crime Control Act. Precisely how might we remedy this in terms of statutory language and so forth? We too will be looking at your suggestions to see whether in due course, statutory modifications in the Act should respond to what you have cited.

Mr. BAER. We would be pleased to prepare that for the record, Mr. Chairman.

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 29, 1985

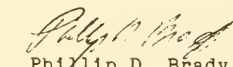
Honorable Robert W. Kastenmeier
Chairman
Subcommittee on Courts, Civil Liberties
and the Administration of Justice
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed is Chairman Baer's response to your letter of April 9, 1985.

This is to advise that the views set out in the enclosed letter are those of the Parole Commission and do not necessarily reflect the views of the Department of Justice or the Administration.

Sincerely,


Phillip D. Brady
Acting Assistant Attorney General

Enclosure

U.S. Department of Justice
United States Parole Commission

Office of the Chairman

5550 Friendship Blvd.
Chevy Chase, Maryland 20815

April 17, 1985

Honorable Robert W. Kastenmeier
Chairman, Subcommittee on Courts,
Civil Liberties and the
Administration of Justice
U. S. House of Representatives
Washington, D.C. 20515

Dear Congressman Kastenmeier:

As requested in your April 9, 1985 letter, I am forwarding answers to the questions submitted, as well as the requested supplemental information.

QUESTION 1: The Comprehensive Crime Control Act (CCCA) requires the Federal Courts to conduct "Parole" revocation hearings rather than the Parole Commission. How many hearings will be involved? How much does it cost to conduct these hearings now? How much will it cost to do in court?

ANSWER 1: At present, we conduct about 2,800 revocation hearings per year. It costs us roughly about \$200.00 per revocation hearing, an answer I'm providing both for this question and as supplemental information as requested at page 54 of the hearing transcript. While it's an informed guess -- I believe that it will cost at least three to four times as much to have the courts conduct revocation hearings. I base this on the following:

Most of the current parole revocation hearings -- about 75% -- are held at a prison or jail where the institution provides the necessary security. The first added cost will be for transporting, housing and guarding about 2,000 prisoners for hearings to be held at federal courthouses.

While the Parole Commission and Reorganization Act affords due process at parole revocation hearings, including representation of counsel and witness testimony, a substantial number of prisoners do not request counsel or witnesses. In many instances, the offender admits the violation or has been convicted of a subsequent offense. The two GS-14 hearing examiners who conduct the proceeding dictate a report on site.

Approximately eight hearings are conducted per day. The other 800 hearings per year are conducted by a single examiner on site and take about two hours each.

When these 2,800 cases move into the federal courthouse, it is likely that the proceedings will become more formal and more time will be expended. It is safe to assume that counsel will be routinely assigned and the proceedings will be lengthened. More government paid personnel will be involved when federal judges conduct the hearings: court reporters, courtroom deputies, law clerks, assistant U. S. attorneys, probation officers. Thus, the "costs" will grow geometrically. Furthermore, there is the "cost" of using the courtroom itself (a valuable commodity that is getting scarcer, particularly in metropolitan districts with crowded dockets) as well as the "cost" of having judges spending time on these matters. While difficult to quantify, this figure is nevertheless significant especially when you consider the new time demands placed upon the federal judiciary by other provisions of the Comprehensive Crime Control Act of 1984.

QUESTION 2: Your statement suggests that the time period provided in the CCCA for supervision is too short. Did you agree with the length of supervision provided in the version of that bill reported by this Committee? Why would longer terms of supervision be better from a law enforcement standpoint?

ANSWER 2: The bill reported by the House Judiciary Committee provided periods of supervision of 1, 3 and 5 years, depending on the felony class, compared to the 1, 2 and 3 year periods contained in the CCCA. I believe that the provisions of the House Judiciary Committee's bill are superior, but I would recommend further that the minimum period of supervision be raised from one to three years.

A common myth is that the vast majority of recidivism occurs within the first year after release. A number of recent studies conclusively demonstrate that the risk of recidivism occurs well beyond the first twelve month period. See, for example, P. B. Hoffman and B. Stone-Meierhoefer, "Post Release Arrest Experiences of Federal Prisoners: A Six-Year Follow-Up," Journal of Criminal Justice, 1979, 7; H. Kitchener, A. K. Schmidt, and D. Glaser, "How Persistent is Post-Prison Success," Federal Probation, 1977, 41. The need for lengthy supervision is particularly acute for drug and other substance abusers. That was part of the reasoning behind the imposition of special parole terms for drug offenders; reasoning that is still valid today.

Longer periods of supervision are also necessary for the mentally disordered violent offender. Further, considering the priority given to the collection of fines and restitution orders, a one year period of supervision makes it less likely that the monies will be paid in full; supervision is an excellent way of assuring that installment payments are made and are paid on time.

And, as a final point in this regard, nowhere is the need to increase the terms of supervision better demonstrated than when one looks at probation and the terms available to the courts for that sentencing alternative. New Section 3561(b) of Title 18 authorizes up to a five year term of probation supervision for both felonies and misdemeanors. Probation is imposed for less serious offenses, but the new law provides more supervision in the community for probationers than it does for the more dangerous individuals coming back into society after a period of incarceration.

I also would recommend that post release supervision be made mandatory, not discretionary. Mandatory, rather than discretionary, supervision is needed both to protect the community as well as to aid the offender in his or her transition back to society. Most offenders require a period of supervision after release from prison. Attempting to predict, at the time of sentencing, the few who may not require such supervision as well as the length of supervision for those who require supervision will be most difficult.

Those offenders sentenced to a term of imprisonment will be the more violent offenders or those offenders that are the more likely to recidivate. Substance abusers, in particular, present risks to the community. A report by the National Institute of Justice (Probing the Links Between Drugs and Crime, U.S. Department of Justice: November 1984) indicates that a substantial number of the most serious offenders have histories of heroin abuse, often in combination with other drugs, and that drug abuse is one of the best predictors of serious career criminality. For example, the report cites a study in Miami which showed that heroin abusers averaged 375 offenses per addict per year. The special parole terms, contained in the Comprehensive Drug Abuse and Control Act of 1970, were created with those kinds of statistics in mind. The special parole terms, however, are abolished under the new law.

I believe it would be simpler and clearer to give all offenders committed to prison a mandatory term of supervision. This would also eliminate the possibility of having supervision periods becoming bargaining chips in plea negotiations. The Sentencing Commission could then focus its efforts on developing guidelines and policy statements for early discharge from supervision in which the court could take into account actual behavior under supervision.

QUESTION 3: In light of the experience of the Parole Commission in using guidelines what advice would you give to the Sentencing Commission? To the Congress in reviewing proposed guidelines?

ANSWER 3: The movement for federal sentencing guidelines evolved, in large part, from the parole release guidelines developed and used by the Parole Commission since 1973. Thus, there exists in the Commission a considerable body of knowledge and experience in the related issues of guideline development and implementation. We stand ready to assist the Sentencing Commission in its effort.

It is not easy, however, to reduce the knowledge gained through over a dozen years of experience in a brief response to your question. With the Subcommittee's permission, we would like to prepare a more thorough answer and to submit such at a later date.

For the present, I would note that, in my opinion, the most difficult job facing the Sentencing Commission will be to construct guidelines that will take into account all the factors necessary to provide substantive equity and yet promulgate guidelines that are clear enough to be consistently applied -- striking this balance will be no mean feat.

One of the advantages that the Parole Commission has had is that our Commissioners are involved in the day-to-day application of the guidelines; they have continuing experience in using our rules and procedures as they impact on actual cases. In this regard, I would recommend that some monitoring mechanism be built into the system -- a means whereby the Sentencing Commission can develop "hand-on" experience with the impact of the guidelines on individual cases.

Other pertinent concerns will include: the problems of developing and adjusting guidelines to take prison population into account; the implications of using the offense of conviction, as opposed to total offense behavior, and its impact on prosecutorial control of the sentencing process; and the need to plan for the extensive training that will be required for numerous criminal justice personnel.

As regards the Congress, I would recommend that any sentencing guidelines developed should be accepted or rejected as a whole unit -- the legislature should not try to fine tune individual guidelines. A change in one item often has an impact across several others. Thus, I would encourage legislative review to focus on the broad structure, and not individual offenses or ranges.

QUESTION 4: What statutory authority permits the operation of the reparative work program?

ANSWER 4: The program actually is operated by the U. S. Bureau of Prisons, which has general authority to maintain a system of half-way houses, community work programs, etc., for Federal prisoners, 18 U.S.C. Sec. 4082(c)(1). This particular program was commenced by the Bureau at the Commission's initiative. The Commission's functional role is to reward successful participation in the program with a two-month advancement in parole date. This practice is clearly within the authority granted to us under the Parole Commission and Reorganization Act of 1976 (90 Stat. 219). More specifically, 18 U.S.C. Sec. 4206(a) affords the Commission the authority to release prisoners subject to our rules and guidelines and, further, under Sec. 4206(c) the Commission is permitted to grant or deny release on parole, notwithstanding our guidelines, if we determine "there is good cause for doing so." The Commission has determined that successful participation in such a program may be viewed as "good cause" since it enhances the value of prison service in terms of serving the goals set forth at 18 U.S.C. Sec. 4206(a)(1) and (2).

QUESTION 5: The last time you testified here you indicated that the Parole Commission could change its guidelines to provide a centralized response to prison overcrowding. Do you have such a change under consideration? How would such a system be implemented?

ANSWER 5: As you know, our parole release guidelines are based on a matrix that considers the gravity of the prisoner's present offense behavior on one axis and the prisoner's parole prognosis, devised from offender characteristics, on the second axis. An actuarial device known as the salient factor score was developed empirically to aid in making these prognosis assessments. For each combination of offense (severity) and offender (parole prognosis) characteristics, a guideline range is provided. This decisional range indicates customary parole policy by specifying the number of months to be served before release, assuming the prisoner demonstrates good institutional behavior.

As a centralized response to prison overcrowding, the Commission could re-assess the ranges for various offense/offender combinations and lower the assigned term of months therein contained. For instance, for the less severe offenses (categories one, two, and three) and for the offenders with the better parole prognoses (very good and good) the Commission might lower the ranges without endangering the public and while still maintaining an adequate sanction for criminal behavior. Lowering the ranges for these offenders would result in considerable savings of scarce prison space and would effect a significant relief of overcrowding.

Although we periodically review our guidelines, a change of this nature is not under active consideration. We have received no indication from the Department, the Administration, or the Congress that such would be considered an appropriate response to the overcrowding problem.

I might add, however, that we recently reviewed a substantial number of case files to identify prisoners whose minimum terms were above our guideline ranges for potential sentence reduction pursuant to 18 U.S.C. Sec. 4205(g). We began this project at the request of the Department and the Bureau of Prisons as an effort to assist in reducing overcrowding, announcing our plans in 48 Federal Register 22949, May 23, 1983. Beginning in August 1983, we reviewed 1,473 prisoner files for possible retrospective recommendations to the Bureau of Prisons. We identified 401 cases where we felt that a 4205(g) petition could be made to the courts. If all of these recommendations had been made by the Bureau and then accepted by the courts, the Bureau could have saved, eventually, 5,797 prisoner incarceration months. Then, beginning in October 1983, the Commission started to review all current cases for possible sentence reduction recommendations. In all, an additional 171 cases were identified for an additional potential savings of 3,794 prisoner incarceration months. But, as Mr. Carlson indicated in his testimony, the Bureau moved for a reduction of sentence in very few of the cases we recommended and has recently recommended that the Commission cease this effort.

Finally, at page 59 of the hearing transcript, Congressman Kindness indicated that he would welcome further comments on monitoring the use of the sentencing guidelines. The following is submitted as a response to that request.

It seems clear that the introduction of sentencing guidelines will enhance the system's equity by providing some reduction of unwarranted disparity. However, there are serious obstacles to achieving success in reducing disparity in regard to the actual duration of prison terms. Disparity in prison time served might even increase under the new procedures. This is of particular significance in that prison term disparity, in contrast to disparate fines or probation terms, is the form of unwarranted disparity that evokes the most concern and criticism.

In contrast to the nine-member Parole Commission, the federal judiciary consists of an extremely large number (over 600 judges and over 500 magistrates) of highly decentralized decision-makers with a strong tradition of independence. While judicial independence historically has protected private freedoms against government abuse, it has also made it difficult to coordinate and direct the activities of federal judges even where uniformity of response is desirable. Guideline assessments under the Act are likely to be substantially influenced by judgments of the 1,700 probation officers who presently prepare presentence investigations and who will be advising the judges and magistrates as to the appropriate sentencing guidelines, thus introducing an even larger number of agents into the process. It is likely that there are serious limits to the complexity and detail of guidelines that can be communicated through instruction and ongoing training to such vast numbers of personnel.

The legislative history of the Act states that an adequate compliance mechanism is provided by its provision for appellate review. However, there are limitations on the scope of appellate review, due in part to a concern that the already overworked appellate courts would not be able to handle a large added burden from sentencing appeals. Furthermore, there is little indication that the decisions of the numerous panels of the twelve courts of appeals will provide a truly consistent sentencing policy, a policy any more consistent than their brethren on the trial bench. It is highly unlikely that already overworked appellate courts will assume an activist role in sentencing review. Clearly, there is no historical tradition of appellate involvement with sentencing review; rather, considerable deference is paid to the trial judge's ability to observe the defendant. Thus, diverse trial and appellate court departures appear inevitable.

The drafters of the Act apparently realized the problem of numerous individual decision-makers and attempted to deal with potential disparity by severely limiting the potential width of the guideline range. While a certain legislative restriction on the width of the guideline ranges would appear desirable, an attempt to restrict discretion by the creation of extremely narrow guideline ranges is likely to produce unintended consequences. Constriction of the guideline ranges in this fashion might result in numerous, very narrow guideline categories, transferring enormous power to the prosecutor to influence the guideline range by the selection of the charge and thereby papering over the disparity problem. Even a good faith effort to apply the guidelines correctly would be difficult under this system. On the other hand, a smaller number of extremely narrow categories could easily create a more hidden form of disparity by requiring that unlike offenders be treated alike. Neither appears to be an appropriate remedy.

The Sentencing Commission, as the author of the sentencing guidelines, would be an excellent resource either to answer presentence questions on the appropriate guideline to be used or to review the guideline actually utilized by the sentencing court. However, the Act does not provide such responsibility or authority. While, pursuant to 28 U.S.C. Sec. 994(v), the Sentencing Commission will be receiving written reports on each sentence and offender, the purpose of these communications is to develop analyses and recommendations for guideline revision rather than to provide direct feedback to judges or probation officers.

As one potential solution to these problems, the Act could be amended to provide that the sentencing court promptly furnish to the Sentencing Commission a copy of the complete presentence report in the case of each prisoner sentenced to a term exceeding one year, a copy of any findings upon which the sentence was based and the reasons for the sentence imposed, and any

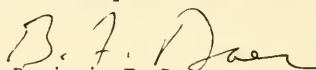
transcript of the proceedings of the court relevant to sentencing. The Sentencing Commission then would review the specified documents within 30 days after receipt from the sentencing court and could file a motion (or an advisory of some kind) in those cases where it felt the sentence was inappropriately severe or lenient or where the incorrect guideline was used.

In cases where the Sentencing Commission does not move for a modification of sentence, the Commission could, nevertheless, report to the court on its review of the case. Such reports could promote the effectiveness of the sentencing process in the long term by giving the district court feedback on sentences and could assist in the Court of Appeals in disposing of an appeal of the current sentence. A review mechanism of this type was included last year in H.R. 5690.

Such a monitoring mechanism truly would help to minimize unwarranted disparity by (1) providing a small, specialized group to review imprisonment sentences for consistency and correctness of guideline application; (2) providing the district court with an opportunity to correct a disparate sentence short of appeal; and (3) enhancing the effectiveness of sentence review without overburdening the courts of appeals. These review process would also form the basis for "hands-on" feedback to the Sentencing Commission as to the effectiveness of the sentencing guidelines and as to the areas in the guidelines that may require clarification.

I want to thank you again for the opportunity to appear before you.

Sincerely,


Benjamin F. Baer
Chairman

BFB:br



Money Sought for New Detention Center:

Administration Presses Policy Of Incarcerating Illegal Aliens

Since July 1981, the Reagan administration has been sending a message to potential illegal immigrants to the United States: Don't come.

The biggest signboard is an aggressive policy of detaining illegal aliens who refuse to return home voluntarily after they are caught, but instead pursue legal means to remain in the United States.

This is a decisive shift from the policy of previous administrations, which more often than not released apprehended aliens pending hearings on their requests to stay.

Justice Department officials say detention is "mandated by statute." A policy directive issued April 16, 1982, cites a provision of immigration law stating that except in very specific cases, aliens "who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry . . ."

Figures from the Immigration and Naturalization Service (INS) illustrate the results of the four-year-old policy and why President Reagan's fiscal 1986 budget is seeking funds to complete a new 1,000-bed detention center for illegal aliens now under construction in Oakdale, La. (*Budget, Weekly Report p 250*)

On an average day in fiscal 1981, the last year of the Carter administration, there were about 1,600 illegal aliens in detention at six INS facilities, according to the INS. In fiscal 1982, the first year of the Reagan administration, the average daily detained population rose to just over 2,000. By fiscal 1985, which began Oct. 1, there were 2,200 to 2,300 aliens detained on any given day.

The government's seven main detention facilities for illegal aliens — one was added in October 1984 — are filled beyond capacity. And the INS uses a half-dozen alternative facilities

on a contract basis. In addition, about 1,000 state and local facilities have been used on an "as needed" basis.

In the fiscal 1986 budget, the Bureau of Prisons is requesting \$10.5 million from Congress to finish the Oakdale center and place it in operation; \$17 million appropriated in fiscal 1983 already has been spent.

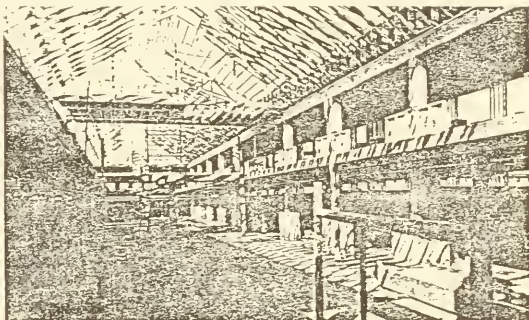
Lawsuits Challenge Detention

The detention issue has been a controversial one, prompting a number of lawsuits by incarcerated aliens. Lawyers representing the detainees

But over the past few years, many of them — especially from war-torn El Salvador — have refused to leave, saying they fear the violence in their native land. Instead, they have applied for "asylum" in the United States, which is available to persons fleeing their homelands because of a well-founded fear of persecution based on race, religion or political belief.

The government has been reluctant to grant asylum to Salvadorans, or to thousands of Haitians who have also sought asylum, contending that they are "economic" migrants seeking a better life and are not actually fleeing persecution.

Last year, an INS official said, the government granted asylum in 23 cases involving Haitians and denied it in 352. (One case frequently involves more than one person.) For El Salvador, asylum was granted in 328 cases and denied in 13,045.



This building is part of a 1,000-bed detention center in Oakdale, La., that the Bureau of Prisons and the Immigration and Naturalization Service hope to open in 1986.

contend that people who have violated no criminal law are being treated as though they have. The lawyers also charge that the government is applying the detention policy in a discriminatory manner against Haitians and El Salvadorans.

Illegal aliens apprehended in this country, whether at the border or in communities where they have settled, have the option of returning voluntarily to their home countries.

By contrast, asylum was granted in 5,017 cases involving Iranians and denied in 3,216 cases. The spokesman said Iran was the only country in which more applications were granted than denied because of "clearly demonstrated" religious persecution in that country.

Public concern over the plight of the Salvadorans, in particular, has prompted some churches in the Southwest to provide sanctuary for

—By Nadine Chodas

Special Entry Status Urged for Salvadorans

Several members of Congress have introduced legislation to allow people fleeing war-torn El Salvador to stay in the United States temporarily until conditions in their own country improve.

The measures were spurred in part by the growing "sanctuary movement" among churches in the United States that are sheltering Salvadorans who enter this country illegally. The government has sought to halt such assistance through prosecutions of those involved.

Despite its ostensible humanitarian thrust, the legislation is by no means certain to pass. It is caught up in partisan warfare over the Reagan administration's Central America policies.

Some Republican members of Congress say privately they believe the bills are an attempt by Democrats to show that the administration's policy in Central America is not producing the peace or stability President Reagan claimed it would. "This clouds the whole issue," said one GOP Senate aide.

The administration opposes the legislation, contending that Salvadorans who enter the United States illegally are not fleeing persecution or danger in their own country but simply are "economic migrants" seeking better jobs here.

Salvadorans who can prove they face persecution at home can win asylum in this country, officials argue. At the end of December, there were 682 pending asylum requests from Salvadorans, according to Verne Jervis of the Immigration and Naturalization Service (INS).

Last year, the government granted asylum in 328 cases involving Salvadorans and denied asylum in 13,045, Jervis said. He added that about 3,900 of those denied asylum returned to El Salvador either voluntarily or through deportation proceedings. The remaining Salvadorans are presumed still to be in this country.

Although some private groups say there are 500,000 to 600,000 Salvadorans in the United States illegally, Jervis said the INS had no reliable estimate.

Legislation Introduced

Rep. Joe Moakley, D-Mass., introduced a bill (HR 822) Jan. 30 to grant special immigration status to the Salvadorans, and Sen. Dennis DeConcini, D-Ariz., introduced a companion measure (S 377) Feb. 5. As of Feb. 14, HR 822 had 15 cosponsors and S 377 had six.

Both measures would suspend for about two years the deportation of Salvadorans who entered the United States illegally, giving them "extended voluntary departure" status. Such suspensions of deportation currently are allowed for aliens from Afghanistan, Ethiopia, Uganda and Poland.

Aliens permitted to remain in the United States under extended voluntary departure status do not have permanent resident status or political asylum. They are simply authorized to stay in this country until conditions in their homeland permit a return.

The legislation also directs the General Accounting Office to study and report back to Congress on several matters: the number of displaced Salvadorans and their location; the living, safety, medical, housing and nutri-

tional conditions of Salvadorans who have fled to other nations in Central America; efforts being made to improve these conditions; and the condition and circumstances of those returned by the United States to El Salvador.

Neither the House nor the Senate Judiciary Immigration subcommittees, which have jurisdiction over the legislation, has planned hearings yet.

Moakley and DeConcini had introduced legislation in the 98th Congress. The House measure was approved by the Immigration Subcommittee but never considered by the full committee. There were no hearings in the Senate on DeConcini's bill.

As part of the 1984-85 State Department authorization (PL 98-164) Congress adopted a "sense of the Congress" resolution recommending that Salvadorans be granted extended voluntary departure. DeConcini said on the Senate floor Feb. 5 that "the Reagan administration has simply ignored it." (1983 Almanac p 145)

DeConcini rejected the notion that his bill was politically motivated. "I do not offer this legislation as a

"I do not offer this legislation as a criticism of the administration's policies in El Salvador. . . . However, along with that involvement comes certain responsibilities . . . to these distressed people to protect them from violence, both random and specific."

—Sen. Dennis DeConcini,
D-Ariz.

criticism of the administration's policies in El Salvador because I believe it is in the best interests of both countries," he said. "However, along with that involvement comes certain responsibilities . . . to these distressed people to protect them from violence, both random and specific."

The Sanctuary Movement

Since the government stepped up its efforts to stop the flow of Salvadorans into the country, a total of 18 people have been indicted on charges related to sanctuary provided to Salvadorans.

Two people were indicted last year in Texas. One of them, Jack Elder, a leader in the Texas sanctuary movement, was acquitted Jan. 24 on charges of illegally bringing three Salvadorans into the United States.

Elder was the first person to be tried as a result of the crackdown. However, he faces other charges from a different incident involving Salvadorans.

On Jan. 14, 16 people in Tucson and Phoenix, Ariz., were indicted and more than 60 arrested on charges of smuggling aliens into the country, harboring them and engaging in a conspiracy. The charges against two of the 16 — both Catholic nuns — were dropped Feb. 12.

Salvadorans who make their way into the United States. Sixteen people currently are facing federal criminal prosecution on charges stemming from sanctuary provided to the Salvadorans. (*Sanctuary issue, p. 326*)

Pending Supreme Court Case

The Supreme Court has ruled that once settled in the United States, illegal aliens do have certain rights. Last December, the justices agreed to decide a case that will determine some of the rights of "excludable" aliens — those caught soon after entering the United States who are unable to demonstrate that they have a legal right to be here. (*1984 Weekly Report p. 3066*)

The case involves Haitian "boat people" who claim they were unconstitutionally discriminated against because they were detained pending the outcome of their asylum applications, while aliens from other countries generally were paroled in such situations.

A federal appeals court in Atlanta ruled in February 1984 that the incarcerated Haitians had no constitutional right to be released while their requests were under review. The court said the decision to parole or detain an alien in such circumstances is within the discretion of the government, which may, if it chooses, discriminate on the basis of national origin.

New Center Opposed

With the detention policy firmly in place, opponents have few options for changing the status quo. "We recognize that we were not able to challenge the policy in a frontal assault," said Wade Henderson, a lawyer with the American Civil Liberties Union (ACLU), one of at least a dozen organizations across the country working for aliens' rights.

Instead, these groups are putting together a two-pronged attack to bar the Oakdale center from opening. But with \$17 million already appropriated and the project nearly half completed, Henderson conceded the effort is an uphill battle at best.

The \$10.5 million requested in Reagan's new budget would finish construction of the center and pay for its first 10 months of operation by the prison bureau and the INS.

The ACLU and Church World Service, the immigration and overseas development arm of the National Council of Churches, will seek to block any fiscal 1986 appropriation. They also want renewed congressional hearings on the detention issue.

Rep. Robert W. Kastenmeier, D-Wis., chairman of a House Judiciary subcommittee with prison bureau oversight, held one hearing on the detention policy in June 1982. He said in an interview that he had no current plans for another hearing on the subject but would question prison and INS officials about the Oakdale facility during oversight hearings on the prison bureau.

Apart from efforts on Capitol Hill, a group of detained aliens, lawyers and aliens' rights groups filed suit last July in federal court in Washington, D.C., seeking to prevent the Oakdale center from opening. The suit contends that putting a detention center in rural southern Louisiana essentially deprives detainees of the right to counsel because there are so few lawyers around Oakdale.

The government has filed a motion to dismiss the suit, but the motion has not yet been considered.

The government argues in part that the claim is not ripe for federal court review because none of the detained plaintiffs is incarcerated there.

The Oakdale Facility

Oakdale will be nearly twice as large as any existing detention facility for illegal aliens. Plans for such a center were first proposed late in 1981, after the administration announced its detention policy.

In 1982, Justice Department officials formally asked for \$35 million to build two facilities — one on federally owned land in Petersburg, Va., the other in El Reno, Okla.

After the 1982 hearings, Kastenmeier asked the House Appropriations Committee to scrutinize the request. He contended that the overcrowding used to justify new facilities resulted largely from the administration's own stepped-up detention policy.

The \$17 million fiscal 1983 funding for the prison bureau was only half the administration's request.

The proposed Oklahoma and Virginia sites subsequently were abandoned, and in February 1983 the government chose Oakdale, after local and state officials mounted an all-out campaign for the facility.

The town and surrounding area have been hard hit economically because of a declining lumber industry. Unemployment has been higher than 30 percent during some months, and residents and their government leaders were looking for some way to "rebuild the town," as one lawyer put it.

The pending lawsuit claims that incarcerating aliens at the center in Oakdale effectively deprives them of their right to a lawyer.

One section of the immigration law gives aliens the right to counsel in exclusion as well as deportation hearings, although the government will not pay for the lawyer. An alien also has the right to a lawyer during proceedings on a request for asylum.

According to the lawsuit, Oakdale, which is about 200 miles from both New Orleans and Houston, Texas, has only 12 lawyers. The complaint also notes that there are no groups in Oakdale organized to provide free legal services to the detained aliens, who for the most part have no money, or to help secure interpreters or other support for detainees.

The suit also alleges that the government violated the National Environmental Policy Act by failing to prepare an adequate environmental impact statement that analyzed the environmental consequences of the project and alternatives to it.

"You can't detain people and then ship them off to the middle of nowhere," said Lucas Gutentag, of the Columbia University Immigration Law Clinic and a lawyer in the case.

"This is not an affront to Oakdale or to its lawyers to say, 'You can't do it.' Nobody can do it because of the size and remoteness of the facility."

Oakdale sees it differently. Perrel Fuselier is a lawyer in the town who has helped lead the fight to get the detention center. In an interview, he said that the Louisiana State Bar Association surveyed the area around Oakdale and identified 700 lawyers within a 60-mile radius.

Fuselier claimed the lawsuit amounted to saying that "all people in small towns are subject to discrimination because they are deprived of more sophisticated, big-city lawyers."

George B. Mowad, the mayor of Oakdale, filed an affidavit in the lawsuit listing a number of things residents have done in anticipation of the detention center, such as building an intensive-care unit at the local hospital for \$265,000, refurbishing the local radio station for \$120,000, and making \$55,000 worth of renovations at an Oakdale department store.

Putting the center in Oakdale, Mowad said, created "an atmosphere of hope in the face of severe economic hardship, and the halting of construction would deliver a devastating blow to the economy of this area..." ■

More Correctional Facilities Operated by Private Firms

By Loretta Tofani
Washington Post Staff Writer

Federal, state and local governments increasingly are turning to private firms to build or manage institutions for work-release prisoners, illegal aliens and juvenile delinquents, according to a National Institute of Justice study released yesterday.

No prisons have been constructed or managed by private firms, the study said, although a private firm in Texas is planning a local jail that also would be used for illegal aliens.

Prisons are institutions in which persons convicted of crimes serve sentences; jails are institutions in which persons charged with crimes await trial or serve short sentences.

"Corrections departments have long relied on private vendors to furnish specific institutional services or to operate after-care facilities and programs," said James K. Stewart, director of the National Institute of Justice. "But they now are turning to the private sector for help in financing new construction and in managing primary-confinement facilities."

Stewart said the trend has resulted from overcrowding and the escalating costs of prisons and jails.

Allowing private firms to manage such facilities has been controversial within the corrections field. The National Sheriff's Association opposes the trend, while the American Correctional Association has said it is willing to give private firms a chance.

The study showed that 28 states pay private firms to operate halfway houses, work-release centers and

prerelease centers for those with lenient sentences or who have served most of their sentences. States that employ private firms most frequently are California, Massachusetts, Michigan, New York, Ohio, Texas and Washington.

In addition, private firms operate hundreds of state residential programs for 10,712 juvenile delinquents nationwide, the study said.

The Immigration and Naturalization Service has issued four contracts to private firms to build facilities for illegal aliens awaiting deportation, the study said. The INS plans to award five more such contracts.

The study also said private firms have constructed jails for two states—Alaska and Ohio—under a lease/purchase agreement in which the state buys the jail from the firm over time. Ordinarily, governments finance jail construction with general-obligation bonds that require voter approval. The lease/purchase agreement allows governments to "circumvent" the "referenda requirements of general-obligation bonds," the study said.

"Because no voter approval is required, lease/purchase agreements undeniably reduce citizen participation in corrections policy," the study said.

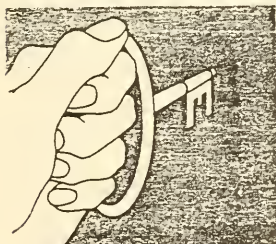
Prisons for profit: the private alternative

Corrections officials may be skeptical, but private enterprise has come up with a new approach to incarceration.

Kevin Krajick

As the nation's prison population has spiraled to new heights each month for the past several years, prison administrators have been beset by overcrowding, violence, money shortages, and lawsuits over poor living conditions. Since construction is lagging far behind prison population growth, officials have erected tent cities inside the walls and rented trailers. In an increasing number of states, they simply have turned inmates loose early under new emergency release laws.

In the past year, with almost no public notice, a singular idea for dealing with these problems has evolved into a whole new industry: private, for-profit prisons. There are now, or will be in coming months, at least a dozen such institutions holding in-



First in a series
on criminal justice
and prison overcrowding

mates under contracts with public agencies. Their customers include the U.S. Bureau of Prisons, the Immigration and Naturalization Service, and several local governments. Florida and Pennsylvania are two states that have turned over several juvenile institutions to private operators.

Many corporations are convinced that the market for private prisons will grow rapidly this year, and they have begun taking out options to lease suitable properties. They also have sent out marketing representatives to try to sell the idea to corrections officials in dozens of states. A number of prominent corrections professionals have quit public life and gone into business. Most of the companies are concentrating their marketing on states where overcrowding and lawsuits have made officials most desperate for solutions.

Few corrections officials have sought out the prospective corporate wardens on their own, and many of them are openly skeptical of the idea. Some, however, are beginning to agree with the corporations' claims that by eliminating governmental entanglements and using private capital and modern management techniques, the companies can build institutions faster and cheaper, run them more efficiently, and still make a profit on what they charge the state.

States have been unable to keep up with housing the inmate population



Photo by Bill Powers

largely because of political infighting and bureaucratic delays. Some states have been unable to pass bond issues to raise money for new prisons. And officials fear that, even if the states could, the new prisons might not be needed in five to 10 years, when some experts predict that the current boom in imprisonment may subside. For these reasons, private offers to finance, build, and run institutions — all under easily terminated contracts — have become newly attractive to some administrators.

"Private enterprise probably *can* run prisons cheaper than government," said Jerome Miller, a former juvenile corrections commissioner in Massachusetts and Pennsylvania who runs a company that offers alternatives to prisons. "The question is are they just going to run an outmoded and inhuman system more efficiently, or are they going to bring some real improvements and new ideas?"

Most private institutions are still too new for anyone to assess whether they are run any better or worse than government facilities. But most observers agree that, given the dreadful quality of life in many prisons, the entry of business into the field should be viewed as something more than

Kevin Krajick, a free-lance writer based in New York City, is a former editor of *Police* and *Corrections* magazines.

just a way for the various parties to make money. One corrections official-turned-businessman sees private enterprise as "the shining hope for improving corrections in the 1980s."

Since the late 1960s, private companies have supplied many of the most progressive community programs for offenders — such as halfway houses, work programs, and drug rehabilitation efforts — under contracts with local, state, and federal agencies. The International Halfway House Association, the trade group representing most of the private vendors, estimates that about two-thirds of its 1,500 members provide programs for correctional agencies. In the past several years, other kinds of companies have been moving into the institutions themselves, providing contract medical, educational, and food services. Professional thinkers, such as Peter Greenwood of the RAND Corporation, have been tinkering with the idea of complete private institutions for several years. Few of those who have talked about it in the abstract, however, expected to see the industry blossom so suddenly.

The potential leaders in the punishment-for-profit business include such conglomerates as RCA and Control Data, plus several new companies formed specifically to make money on imprisonment. Existing halfway house companies also have been

making a strong showing because of their experience in the correctional field and good contacts with government officials.

RCA leads way

The pioneer is RCA, which has run a small juvenile institution for the state of Pennsylvania since 1975. Its Weaversville Intensive Treatment Unit, a fenced-in two-story brick building isolated in the east Pennsylvania countryside, holds 15 to 20 hard-core delinquents. The state owns the building, but employees of RCA staff and run the program completely. The state sets program standards and supplies a \$900,000 yearly budget, about 5 percent of which is RCA's profit. Until recently, Weaversville was probably the country's only private correctional institution.

In July 1982, the state of Florida turned over the Okeechobee School for Boys, one of its three large juvenile institutions, to the non-profit Jack and Ruth Eckerd Foundation. The foundation, endowed by the Florida-based Eckerd drug store chain, has been running wilderness programs for emotionally disturbed youngsters for 16 years. Jack Eckerd is said to have told Governor Bob Graham that he could run the school more efficiently than the state. At Graham's behest, the Legislature

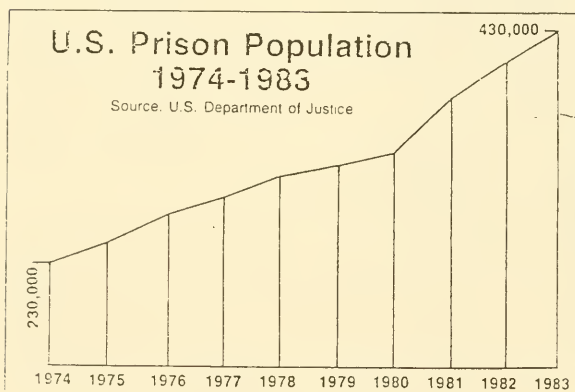
added a provision to the state budget allowing the transfer of authority. Eckerd's contract totals \$6.2 million this year for custody of the institution's 425 inmates.

Since Okeechobee, the U.S. government has supplied most of the other private prison contracts. The Immigration and Naturalization Service has been capturing a growing number of illegal aliens and imprisoning them pending deportation hearings. Until recently, the INS held all its prisoners in its own detention centers, or in publicly owned local jails to which the agency paid a fee. Last year, the INS also began contracting with Behavioral Systems Southwest, a California-based halfway house company. The company now holds about 350 INS prisoners in four converted motels surrounded by barbed wire in California, Arizona, and Colorado. It also has small contracts to hold short-term prisoners for the U.S. Marshalls and the federal Bureau of Prisons.

The INS also has begun contracting with the Corrections Corporation of America, a Nashville-based company that opened for business last June. It is possibly the first modern corporation organized for the purpose of running prisons. The company has built a \$4-million, 300-bed detention center in Houston, Texas, which began operating in March at a daily cost to the INS of \$23.84 per prisoner.

Also in March, the federal Bureau of Prisons awarded a contract for the biggest private lockup so far: a 575-bed prison for illegal aliens serving terms for immigration offenses. The contractor is Palo Duro Private Detention Services, a corrections consulting firm based in Amarillo, Texas. The company has leased an unused U.S. air base near Mineral Wells, Texas, and expects to open for business this spring. The government will allow them to charge up to \$45 a day per prisoner.

The Bureau of Prisons already contracts for one other institution, a prison for youthful offenders near San Francisco. The institution, opened in January 1983, is run by Eclectic Communications, Inc., which is based



in Ojai, Calif. The company, which also runs halfway houses, hopes to take prisoners from the state of California as well.

William Garrison, a spokesman for the Bureau of Prisons, explained why the agency decided to contract for the prison for aliens: "We're crowded everywhere, and rather than build our own institution for something that might be a temporary phenomenon, we decided not to take the risk. It takes two or three years for us to site and build an institution, and this was an immediate need, which the private sector offered to fill. If at some point we don't need the institution anymore, we can just terminate the contract." Garrison said that because the bureau did not have to put up any capital to start the prison, and because the contractors can operate it more economically than the government can, the agency will save about 25 percent.



These are the same investors who started the Hospital Corporation of America, now a booming enterprise with 150 institutions nationwide.

The Corrections Corporation will run its prisons much as the Hospital Corporation runs its hospitals: with large purchase orders and a centralized accounting and management operation overseeing the facilities. The company will hire experienced wardens from public agencies to run the day-to-day affairs of the institutions.

Hutto claims that by using the natural advantages of business over government, the company consistently will be able to run institutions for 15 to 25 percent less. "Government is inherently wasteful," he said. "It has agencies on top of agencies, with everybody getting paid big salaries. Every time you want something, you have to go through a complex political process. You can spend two or three years planning a prison and millions of dollars and still not have anything to show." On the other hand, the Corrections Corporation can build in a matter of months, he said, without having to deal with legislative committees, political pressures, or complex bidding procedures. "We can also get better prices from contractors. Contractors always charge the government more."

Hutto pointed out that the company is free to rapidly expand or contract its work force without being restricted by civil service rules. It also can pay less than government agencies by hiring non-union help — practices that characterize the existing private institutions.

As of March, the company had only the INS contract, but Hutto said it was negotiating with local and state officials from about a dozen government agencies in a number of states that he declined to identify.

Part of Hutto's caution may be that he does not want the competition to know which agencies are interested in doing business. In addition to the companies already involved, many others have expressed interest. They include some large industrial security firms and manufacturing and service conglomerates RCA, which until recently viewed its Weaversville school as a one-shot deal, has begun sending out marketing representatives to various corrections departments in an effort to expand into adult prisons. "We plan to actively pursue this type of business in the future," said Al Androlewicz, RCA vice president in charge of government services.

Control Data, a Minnesota-based company whose main business is computers, has run prison vocational

Most aggressive

The Corrections Corporation of America, one of the unsuccessful bidders on the contract, so far seems to be the best-financed, most aggressive specialized organization in the field. The firm was founded by Thomas Beasley, a 41-year-old entrepreneur who is involved in Republican Party politics in Tennessee, and whose other businesses include insurance and real estate ventures. Although Beasley has no experience in corrections, he has hired several prominent professionals. They include Maurice Sigler, retired chairman of the U.S. Parole Commission, and T. Don Hutto, former commissioner of corrections in Arkansas and Virginia. Hutto, vice president of the company, is also president-elect of the American Correctional Association, the country's major organization of corrections professionals. His high position will likely add credibility to the idea of private prisons in general, and to the Corrections Corporation in particular.

The corporation is backed with \$10 million, raised mainly by Nashville's Massey Burch Investment Group.

training programs for the past several years through one of its subsidiaries, City Venture. In January, the company formed a new "corrections services division," which is seeking to run prisons. Richard Mulcrone, a former Minnesota commissioner of corrections, who heads the division, said he hopes the company will be able to run prisons not only more efficiently but also more humanely than states.

Another former corrections official who has gone into private business is Charles Fenton, a former federal prison warden. He has joined with his brother, Joseph, a real estate and construction entrepreneur. The Fentons propose to build and operate an interstate prison that will take protective custody prisoners from all over the country. They have already met with top corrections officials in 17 eastern states, and many have expressed interest, said Joseph Fenton.

The Fentons' company, Buckingham Security, is in the process of buying a 68-acre former industrial site north of Pittsburgh, Pa., which they plan to convert to a 722-bed high-security prison at a cost of \$15 to \$20 million. Indiana, Maryland, and New Jersey, all of which have severe overcrowding problems, have expressed the most interest.

Some states have laws that could prohibit or complicate officials' efforts to contract for private institutions. Some of these are left over from the 19th century, when some states, such as Tennessee, sent large numbers of convicts to private entrepreneurs, who used them as slaves on plantations and in factories. As a result of these abuses, the states took back control of the prisons.

Laws in two states

At least two states, Texas and New Mexico, have recently passed legislation specifically authorizing private incarceration. The Connecticut General Assembly's Joint Judiciary Committee is studying a bill that would set up a task force to review the idea.

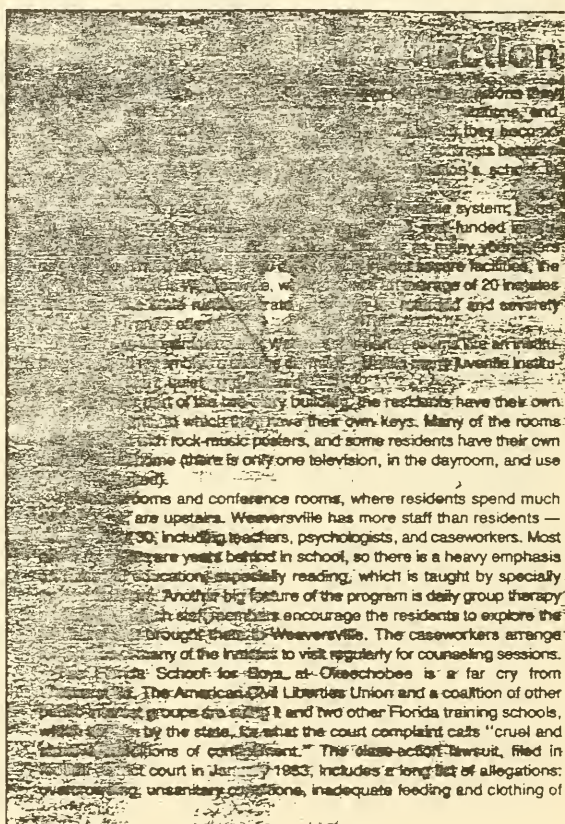
The Texas law, passed last May,

allows county sheriffs to contract for minimum-security facilities only; prisons are to remain under state control. Robert Viterna, head of the state's Jail Standards Commission, termed the law, which was backed by the Texas Sheriffs' Association, "a private interest bill," put through by former lawmen who want to go into business.

Representative James Rudd, the law's sponsor, said, "I can't deny that people are going to go into business as a result of the law, but

that is not its purpose." Rudd said the law is intended to give sheriffs more "versatility" in dealing with the increasingly serious overcrowding problems in county jails and to cut down on the mounting costs of incarceration. The state recently passed a law requiring that drunk drivers be jailed, which the sheriffs believe will greatly increase the demand for minimum-security jail space. As of this writing, no private jails have opened under the law.

The New Mexico law, signed in



March of this year, allows contractors to run maximum-security jails as well as low-security facilities. Many of New Mexico's jails are so primitive that federal courts are closing them, and others have been condemned as fire hazards. In most localities, authorities have been unable to raise money to build new ones. "Something had to be done. We thought that probably private contractors could do the job more cheaply," said Representative John Dixon, who helped pass the law.

Initially, the law will allow only two counties or groups of counties to hire jail contractors. "We felt like we needed to step in the water a little at a time," said Dixon. He said that no one has yet proven that private incarceration is cheaper, and that some lawmakers want vendors to prove that they can do a good job before the whole state is opened up to them.

One of the major figures behind the law is O. Wesley Box, a Colorado oil magnate and cattleman. Box's side-

line is building jails, and late last year, seven rural New Mexico counties that wanted him to build two regional jails for them expressed interest in having him run them as well. In the months before the law passed, Box had a full-time lobbyist making the rounds at the Legislature and the governor's office.

O. Wesley Box is quite forthcoming about why he wants to run jails; he said he has observed a steady growth rate in the New Mexico jail population, and he sees a good opportunity to make profits. In a recent telephone interview, he delivered his sales pitch in oratorical tones: "I tell people wherever they go: 'You can afford to build a jail. Let me tell you why you can afford it. Because if you don't lock up the people who are committing the crimes, they'll kick in your door and steal your \$400 color TV. And it's easier to pay your taxes to build the jail than it is to replace the TV.'"

Officials opposed

Some observers, however, feel a little uneasy about turning over the awesome power of imprisonment to entrepreneurs like Box. The National Institute of Corrections has sponsored an as yet-unpublished survey that asked state corrections commissioners whether they would consider turning over any of their institutions to private vendors. Thirty-five of the 50 said no, citing reasons such as legal problems and unfavorable political climates. For many officials, however, the question touched a deeper issue: "Should justice be a profit-making enterprise?" asked Mark Cunniff, director of the National Association of Criminal Justice Planners. "Should it be an industry that's manufacturing a consumer product? We're talking about taking away people's liberty, and I have real questions about the propriety of anyone but the state doing that."

Edward Koren, a lawyer with the American Civil Liberties Union's National Prison Project, said that the organization has no objection to the idea of private institutions as long as

of state penal priorities

the residents, poor security, which has resulted in frequent beatings and sexual assault among residents, grossly inadequate medical care, lack of psychological counseling, and a general "atmosphere of fear and violence."

The Eckerd Foundation, named in the suit, nor do the state critics blame the foundation for the alleged conditions there. Critics say that Eckerd has inherited the fruits of the state's antiquated and overly harsh policies toward delinquents — policies that would make it difficult for anyone to run a decent facility.

Florida gives Eckerd less than one-half the money per resident at Okeechobee that Pennsylvania gives to RCA for Weaversville. Juvenile-justice experts say that Florida imprisons too many delinquents in training schools to begin with, and that all the schools are too big for their own good. Okeechobee, with an average of more than 400 residents, is more than twice the size of the whole Pennsylvania institutional system. This virtually guarantees that few inmates will receive individual attention. Because of a shortage of qualified staff, some educational programs have waiting lists; the lawsuit charges that the programs are inadequate and poorly organized in any case.

"Okeechobee is just a dumping ground," said state Senator Don Childers, whose district includes the school. "I don't think there's anything Eckerd can do that will have a meaningful effect if they don't control the budget and they don't control who gets sent to them. . . . I think they thought they could turn that place around overnight, but they've found they can't."

Eckerd officials agree with most of the critics. William Ross, the foundation's director of administration, said the worst problems are overcrowding and the uncontrolled mix of psychotics, first-time offenders, and hard-core delinquents, who he said create "havoc." He agreed that the school's sheer size and remoteness (it is in the swampy, rural interior of central Florida) also are problems, and that many of the residents do not belong in a training school. "The ACLU suit has helped bring attention to the problems," he said. "We hope that now the Legislature will become more aware of the needs."

From "Punishment for Profit," in the March 1984 issue of across the board, the magazine of the Conference Board. Copyright © 1984 by Kaven Krajick.

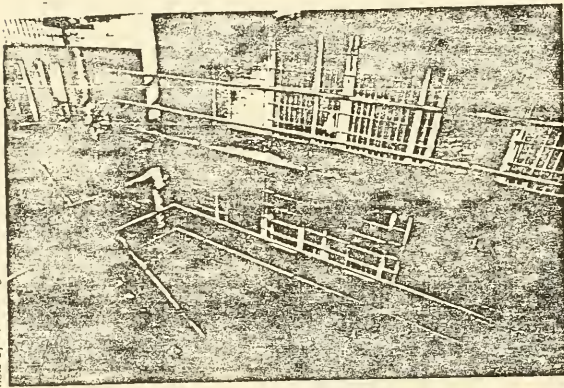


Photo by John Morgan

contractors give prisoners adequate services and humane treatment. "I don't care who runs these places, as long as they do it constitutionally," he said. However, one local ACLU affiliate, in Houston, Texas, has already filed a lawsuit in federal district court that seeks to stop the practice. The suit is based on a 1981 incident in which 16 Colombian ship stowaways were held by private security guards under contract with the ship's agent pending deportation. During an escape attempt, a guard's shotgun discharged, killing one prisoner. In addition to asking for monetary damages, the suit contends that private incarceration should be stopped because companies are not trained to do an adequate job, and because for-profit operations are likely to make good on their promises to imprison more cheaply by cutting back on services, a move that would make prisoners' lives even worse than they already are.

Skeptics often compare the private prison idea with the state-funded private nursing home industry. They point out that, despite state and federal regulations governing such facilities, many of them have been the subjects of scandals over abusive conditions.

"I once had to care for an elderly relative in a private nursing home,"

said Perry Johnson, Michigan's director of corrections. "They were terrible people. If the companies do prisons like they do those places, we'll be set back 100 years." Although Johnson has agreed to meet with at least one company trying to sell its wares to him, he said that they will "have to do a lot of convincing" before he will buy.

Labor unions are a powerful potential opponent of private lockups, since one of the companies' cost-cutting strategies has been to hire non-union, non-civil service help. The American Federation of State, County and Municipal Employees is "skeptical at contracting in general and especially in the area of corrections," said Mark Gray, a labor economist who is monitoring the issue for the union. Gray points out that most corrections officers are already poorly paid — their salaries are usually far below those of police officers — and increasingly overworked, as the inmate population grows. "How they think they can get away by paying even less is beyond me," he said.

In 1982, the probation and correction officers' union in San Diego County, Calif., succeeded in squashing RCA's first attempt to expand beyond its Weaversville School. County officials had come close to

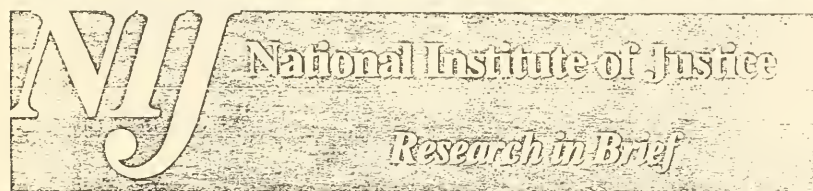
making a deal with the company to open a 100-bed juvenile detention facility when the union took them to court and won, on the basis of an old county bylaw that prohibits private contractors from running public facilities. The county opened the facility on its own, with an all-union staff.

Even those who support the idea of private institutions are concerned with the question of how to make sure private enterprise doesn't abuse its powers in the pursuit of profits.

The question of how private prisons can be monitored is a difficult one. The federal government has written standards for all aspects of institutional life into its prison contracts, which basically reflect the standards of the American Correctional Association. Also, federal employees are assigned full-time to monitor the larger facilities. The state of Pennsylvania, for example, requires RCA to file voluminous reports to show its compliance with state standards, and state officials visit regularly.

As with nursing homes, however, none of these procedures guarantees that the institutions will be run well. State institutions are judged by the same standards, and they are under court orders in at least 32 states to remedy what federal judges have deemed cruel and unusual conditions. Even the American Correctional Association standards, which on paper look impressive, have been used to accredit some institutions where conditions are relatively poor.

Anthony Trivisono, executive director of the association, acknowledges the possible problems in turning prisons over to private enterprise. "But," he said, "complex problems require complex solutions. We ought to let business try. It's true that the profit motive could cause a conflict of interest. For that very reason, people are going to watch private industry very closely, probably more closely than they watch the public sector. The companies have a lot of incentive to do a good job," Trivisono said, "because they won't be rehired if they don't."



October 1984

Corrections and the Private Sector

Joan Mullen

The debate

Few proposals in the field of corrections have stimulated as sharply divided opinions as the prospect of contracting with the private sector for the management of prison and jail facilities. While the National Sheriff's Association has expressed its disapproval and opposition to the concept of proprietary jail facilities, the executive director of the American Correctional Association has suggested that "We ought to give business a try."¹ Both deep reservations and high expectations have also come from the research community. Recognizing the flexibility and economic capabilities that reside in the private sector, some foresee the chance to introduce efficiency and innovation to a field laboring under the burden of outmoded facilities, rising staff costs, declining resources, increasing executive and judicial demands for improved services; and public calls for more prisoners at half the price. Others fear that the profit motive will interfere with professional corrections practice and question whether any part of the administration of justice is an appropriate market for economic enterprise.

The available research

Far more testing and evaluation are required before the ideological debate

that surrounds these issues can be waged in more practical terms. Although the adult corrections field

has a long history of contracting with private organizations for secondary community corrections placements, the

From the Director

Overcrowding and the escalating costs of American prisons and jails are among the factors prompting public officials and the private sector to experiment with new alliances in the field of corrections. Corrections departments have long relied on private vendors to furnish specific institutional services or to operate aftercare facilities and programs. But they now are turning to the private sector for help in financing new construction and in managing primary confinement facilities.

Some of the controversial issues of such arrangements—quality, accountability, security, and cost—have been hotly debated and widely reported in the news media, including *Newsweek*, *The Wall Street Journal*, and *Cable News Network*. Only fragments of experience, however, have been documented, and no comprehensive discussion of the issues has been available.

To respond to this clear need and to inform the debate, the National Institute of Justice, as the research arm of the U.S. Department of Justice, reviewed the extent of private-sector involvement in the corrections field. A special *Issues and Practices* report was commissioned to identify major trends in the privatization movement through the quick assembly of literature, expert

opinion, and assessment of field practices. Corrections departments in all 50 States were contacted as well as many private vendors involved in correctional operations or construction financing.

Because data collection was completed in less than 6 weeks, the information developed is neither exhaustive nor detailed. The objective, however, was not to conduct an extended research project but to provide decisionmakers with timely information and to lay the foundation for future experimentation and evaluation.

This *Research in Brief* summarizes some of the significant findings of *The Privatization of Corrections* and outlines the issues surrounding the new proposals for private financing, construction, and operation of prisons and jails. It also reviews other important background work sponsored by the National Institute of Corrections. The views and conclusions presented are, of course, those of the author and do not necessarily represent the official view of the National Institute of Justice. They do, however, provide a foundation for further inquiry into the private sector's potential for contributing to corrections management.

James K. Stewart
Director
National Institute of Justice

¹ See J. K. Stewart, "Prisons for Profit: The Private Alternative," *State Legislatures*, April 1984, pp. 10-14.

of contracting for primary facilities is relatively new and has yet to be tested on any significant scale. For the most part, information on the benefits and hazards of privately operated adult facilities must be inferred from the experience of correctional agencies in contracting for specific institutional services and aftercare programs. Additional insight can be drawn from related fields of human service (such as health care) as well as the juvenile corrections field, where deinstitutionalization initiatives have prompted the development of a broader array of privately managed programs and facilities. Two recent reports have addressed this experience in the course of reviewing current developments in the movement toward proprietary adult facilities.

The National Institute of Corrections study

One study, conducted by the Criminal Justice Institute for the National Institute of Corrections, focused on the extent to which the private sector is involved in providing services to juvenile and adult corrections agencies.² In this survey, contracting was found most frequently in juvenile rather than adult agencies and was typically used to provide health services, educational and vocational training, aftercare services (including halfway house placements), and staff training. Generally, privately provided services were reported to be more cost effective than those that public corrections agencies could provide. Respondents particularly favored medical service contracts, noting improvements in both the quality of service and staff. Overall, the perceived advantages of service contracting outweighed the disadvantages, although the two most common problems mentioned by respondents were monitoring the performance of providers, followed closely by poor quality of service. Contracting agencies stressed the importance of clearly defining contractor roles and responsibilities, thoroughly checking prospective vendors' competence, and establishing careful contract monitoring and evaluation systems.

While the majority of respondents indicated plans for expanding their use

of contracts for specific services, far more uncertainty was attached to the prospect of contracting for the management of entire facilities. Only 22 percent of the responding agencies suggested that facility management contracts might be considered; about 75 percent would not consider such an arrangement and roughly 4 percent were unsure.

The National Institute of Justice study

A second inquiry, conducted by Abt Associates for the National Institute of Justice, provides an overview of several aspects of the emerging trend toward greater private-sector involvement in corrections.³ Three areas are discussed: (1) the participation of private industry in prison work programs, (2) the use of private-sector alternatives for financing the construction of prison and jail facilities, and (3) the involvement of private organizations in actual facility management and operations.

In many respects, the first area may hold the greatest promise for introducing new models of corrections practice. The aggressive participation of private industry in organizing institutions as places of work might go

far toward achieving Chief Justice Burger's vision of prisons as "factories with fences" instead of warehouses with walls. To date, however, the private sector's involvement in prison work programs has been relatively modest. Thus, while activity in this area is discussed in the full report, this summary focuses on private financing arrangements and facility management contracting—the two areas that lead the current privatization debate.

Private financing alternatives for construction

Faced with continually escalating prison and jail populations, it is hardly surprising to find State and local governments searching for alternatives to the traditional ways of meeting the needs for prisoner housing. At the State level alone, more than 77,000 beds have been added over the past 5 years. And, as Table 1 indicates, States reported plans to spend more than \$5 billion over the next 10 years to increase their prison capacities by another 104,688 beds.

Recognizing the new market opportunities presented by these expansion plans, the private sector has become increasingly active in marketing financing packages for prison and jail construction. Traditionally, governments have financed prison and jail

3 John Mullen, key: Crabbola, and Deborah Carrow, *The Privatization of Corrections*, Abt Associates for the National Institute of Justice, Washington, D.C., May 1984.

TABLE 1
State prison expansion plans
(for the 10-year period beginning Jan. 1984)

| Region ¹ | Number of beds ² | | | Estimated cost ² (in millions) | | |
|---------------------|-----------------------------|----------|---------|---|----------|----------|
| | Funded | Proposed | Total | Funded | Proposed | Total |
| Northeast | 15,590 | 933 | 16,523 | 969.4 | 22.5 | 991.9 |
| North Central | 22,258 | 4,099 | 26,357 | 871.95 | 151.94 | 1,023.89 |
| South | 15,272 | 9,742 | 25,014 | 385.7 | 403.5 | 789.2 |
| West | 10,975 | 25,789 | 36,764 | 665 | 1,561.7 | 2,226.7 |
| Total U.S. | 64,125 | 40,563 | 104,688 | 2,692.05 | 2,139.64 | 5,031.69 |

Source: As estimated by respondents to a telephone survey of State departments of correction administered in Jan./Feb. 1984 and displayed by State in *The Privatization of Corrections*.

Note: 1 Northeast (ME, NH, VT, MA, RI, CT, NY, NJ, PA); North Central (OH, IN, IL, MI, WI, MN, IA, MO, ND, SD, NB, KS); South (DE, MD, DC, VA, WV, NC, SC, GA, FL, KY, TN, AL, MS, AR, LA, OK, TX); West (MT, WY, CO, NM, AZ, UT, NV, WA, OR, CA, AK, HI).

2 Estimated costs not provided for 5,206 beds (9% in the Northeast, 770 in North Central, 1,574 in South, and 1,462 in West). Note that estimates are for capital expenditures only, exclusive of operating costs.

2 C. Camp and George M. Camp, *Private Alternatives in Prison Services and Operations*, Criminal Justice Institute for the National Institute of Corrections, Washington, D.C., 1984, p. 102.

comparisons with current operating expenses and general obligation bonds. By paying cash rather than borrowing, the use of current revenues (the "pay-as-you-go approach") avoids interest charges and long-term liabilities. It is, however, difficult to implement when construction costs escalate and cash reserves are insufficient. With general obligation bonds, governments can raise large amounts of investment capital at competitive interest rates because their "full faith and credit" is pledged to repay the debt. The problem is that general obligation bonds are subject to debt limits and voter approval which, in an era of economic uncertainty and taxpayer revolts, are often insurmountable obstacles.

For these reasons, some governments are turning to the private sector for access to a variety of lease financing alternatives. Most widely discussed are lease contracts, in the form of lease/purchase agreements, which are used to purchase a facility over time, much like an installment sale. Depending on the length and type of lease, prevailing interest rates, and other factors, leasing may be less expensive than bond financing, but the most significant advantage is the ability to evade debt limits by insisting on an annually renewable lease subject to reappropriation. Private investors underwrite lease arrangements because they gain tax advantages, a steady cash flow from periodic lease payments, and the opportunity to transfer some of the risks of ownership to the lessee (for instance, buying insurance against accidental damage or loss). As a result, the costs may be competitive with bond financing.

Stimulated by the successful development of office buildings, port facilities, school buildings, and telecommunications systems, lease/purchase financing is relatively new to corrections. A legal entity such as a joint powers authority or nonprofit corporation finances the project "on behalf of" the government through the sale of revenue bonds or certificates of participation (which split the lease into \$100 pieces), both of which are backed by the lease payments. Promoted by investment bankers and mortgage houses, lease purchase arrangements are being seriously considered in a growing number of States.

- In early 1984, enabling legislation had been introduced in Arizona and Missouri and had passed in Illinois, States where lease/purchase was under active consideration.
- California, Kentucky, and Minnesota had or were then evaluating proposals for lease/purchase financing of State facilities.
- While Alaska and Ohio were the only States that had acquired beds through lease/purchase, some of the major sponsors of lease/purchase agreements (Merrill Lynch Capital Markets, E.F. Hutton, and Lehman Brothers Kuhn Loeb) reported significant activity at the local level: a \$30.2 million jail and sheriff's facility in Colorado, a \$50 million jail project in Philadelphia, a \$5 million jail project in Rutherford County, Tennessee, and a project in Los Angeles County for a jail and criminal justice training center.

The most controversial aspect of lease/purchase financing is its use to circumvent the debt ceilings and referendum requirements of general obligation bonds. Because no voter approval is required, lease/purchase agreements undeniably reduce citizen participation in corrections policy. Arguably, however, the public often expresses inconsistent preferences, simultaneously demanding stiffer penalties but refusing to authorize funds for prisoner housing. All too often public officials are left with no clear directions for developing realistic corrections policy.

Private facility ownership and operations

Confinement service contracts are another way of expanding corrections capacity—without assuming ownership of the required facilities. In these arrangements, vendors are responsible for locating a suitable site, leasing or constructing an appropriate building, and providing all the staff and services necessary to operate the facility. Much like the business of running a full-service hotel, room rates are established based on capital investments, operating costs, and expected occupancy, and the government is often charged by the day for each (unwilling) guest. Table 2 highlights some of the major developments in this area. Since the Abt assessment focused on contracting Federal and State adult

corrections agencies, information on contracts for the confinement of juveniles and offenders under local jurisdiction is necessarily limited but nonetheless instructive.

Federal experience

The most active new market for confinement service contracting has clearly emerged at the Federal level in response to growing demands for housing illegal alien populations. Three Federal agencies have elected to develop contracted facilities to accommodate these demands:

1. The Immigration and Naturalization Service, which is responsible for the apprehension and confinement of immigration law violators pending deportation;
2. The U.S. Marshal's Service, responsible for the custody of alien material witnesses—essentially, smuggled aliens held to testify against their smugglers; and
3. The Federal Bureau of Prisons, which has jurisdiction over sentenced aliens—generally violators who have reentered the country following deportation.

All of these facilities basically focus on providing decent "warehousing" or holding space for aliens whose terms of confinement are relatively short (often a matter of days). Security requirements are minimal and treatment activities are normally confined to efforts to arrange the return of detainees to their country of origin.

State adult experience

Although the publicity that has surrounded Federal facility management contracts has led many to infer the emergence of a national trend toward "prisons for profit," little change was found in the contracting practices of State adult corrections agencies. Although new corporate providers had entered the field more aggressively than ever before, their most immediate prospects appeared to be confined to contracts for community based facilities, closely resembling the halfway house or prerelease model that has been a standard feature of State corrections for many years. The population pressures that have required States to respond fairly rapidly to the need for larger facility networks

TABLE 2
Facility management contracting activity
in early 1984¹

| Federal Contracts | State Corrections Contracts | Local Jail Contracts |
|--|--|---|
| <p>Immigration & Naturalization Service</p> <ul style="list-style-type: none"> 4 facility contracts for aliens awaiting deportation were operating (in San Diego, Los Angeles, Houston, Denver), providing a total capacity of 625 beds. 3 facility contracts were nearing award (in Las Vegas, Phoenix, San Francisco), providing another 225 beds. 2 additional facility contracts offering a total of 270 beds were planned in the near term (Laredo and El Paso, Texas). <p>U.S. Marshal's Service</p> <ul style="list-style-type: none"> 2 small (30-bed) facilities operated under contract in California. Plans to open a larger (100- to 150-bed) contracted facility in Los Angeles for alien maternal witnesses. <p>Federal Bureau of Prisons</p> <ul style="list-style-type: none"> Plans to operate a 400- to 600-bed contracted facility for sentenced aliens in Southwest region. (Project delayed due to siting difficulties.) | <p>Secondary Adult Facilities</p> <ul style="list-style-type: none"> 28 States reported the use of privately operated prerelease, work-release, or halfway house facilities. Largest private facility networks found in California, Massachusetts, Michigan, New York, Ohio, Texas, and Washington. <p>Primary Adult Facilities</p> <ul style="list-style-type: none"> No contracts reported for the confinement of mainstream adult populations; most private proposals still focused on community corrections facilities. One interstate 720-bed facility for protective custody prisoners planned by private contractor. (Project delayed due to siting difficulties.) <p>Juvenile Facilities</p> <ul style="list-style-type: none"> A 1982/83 survey of private juvenile facilities found 1,877 privately operated residential programs holding a total of 31,390 juveniles, 10,712 of whom were held for delinquency. Only 47 institutions were classified as strict security and 426 as medium security.² Departing from the small, less secure settings characteristic of contracted juvenile facilities, a private contractor operates the Okeechobee (FL) Training School for 400 to 500 serious juvenile offenders. | <p>Local Jail Contracts</p> <ul style="list-style-type: none"> Legislation enabling private jail operations was pending in Colorado and had passed in New Mexico and Texas. While the National Sheriff's Association registered formal opposition to privately operated jail facilities, corporate providers reported significant interest and a number of pending proposals for jail operations in the Southern and Western regions. <p>Shared Facilities</p> <ul style="list-style-type: none"> One private organization in Texas is planning to construct and operate a facility that would serve local detention needs as well as the needs of Federal agencies responsible for confining illegal aliens. Other proposals have called for the development of regional jail facilities that would serve multicounty detention needs. |

1. Reported in phone contacts made in January/February 1984 with additional follow-up in mid-March 1984.

2. Unpublished tables from *Children in Custody: Advance Report on the 1982/83 Census of Private Facilities*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.

may simply be prompting a shift in the characteristics of providers—from smaller voluntary groups to firms with stronger organizational capabilities. Whether this apparent trend will lead to contracts for the management of more secure adult facilities remains unclear, particularly in view of the hesitance expressed by the majority of respondents to the NIC survey.

Juvenile facility contracting

In the juvenile field, where so-called primary facilities often resemble secondary adult facilities in their community treatment emphasis, facility management contracts have been far more prevalent. The largest of these efforts, and the one most analogous to adult facility operations, is the Okeechobee Juvenile Training Facility operated in Florida by the Eckerd Foundation, the nonprofit arm of a major U.S. drug manufacturer. Award-

ed in the fall of 1982, the contract called for Eckerd to take over the operations of an existing facility serving between 400 and 450 committed delinquents. Currently the subject of an evaluation by the American Correctional Association, the Eckerd experience is certain to offer valuable lessons to contracting agencies in both juvenile and adult corrections.

Local jail contracting

In many respects, the smaller fiscal and management capabilities at the local level provide a climate that may be most conducive to the development of private facilities. As Table 2 indicates, while opposition is high, so too may be the interest of local governments—particularly in arrangements that will permit the costs of jail construction and management to be shared across jurisdictions. In order to proceed with the construction of a

local jail in Texas, one private contractor had sought Federal guarantees for the use of a portion of the space to detain aliens; the balance of the facility would serve moderate-risk county prisoners. Another contractor was aggressively marketing regional jail facilities that would be shared by two to four counties. (Notably, the only primary adult facility under negotiation at the State level was also based on the concept of interjurisdictional operations. A number of States had reportedly expressed interest in an institution slated for construction in Pennsylvania that would specialize in protective custody prisoners drawn from the populations of a number of State prisons.)

In short, while the market for confinement service contracting at the State and local levels is clearly in its nascent stages, interest is sufficiently high to warrant a careful examination

the issues that may attend any further expansion of the private sector's role in correctional management.

The issues

In the politically charged environment of corrections, the concept of privately managed facilities raises a host of questions that range from relatively simple matters of legal feasibility to more complex issues of political philosophy. Figure 1 outlines the key issues to be considered in planning the development of proprietary institutions.

Political issues. The political issues identified in the Abt report cover both conceptual and strategic considerations.

1. *Conceptual.* In a facility entirely operated by the private sector, a range of management functions involving the classification and control of inmates (including the use of deadly force) might be delegated to a private contractor. Quite apart from any legal constraints on the delegation of these functions, some observers have questioned the fundamental propriety of such a shift. There are those who will argue that some functions (including the administration of justice) are the *raison d'être* of government and cannot nor should be delegated. With equal vigor, others will argue that there is a legitimate and necessary role for private enterprise in corrections management, and the level of individual decisions that may be required to manage the flow of inmates through a facility hardly constitutes an abrogation of the broader role of government in forming system policy. In the final analysis, the issue is grounds for lively ideological debate that calls for a careful definition of the appropriate role of private providers and the limits to be placed on contracted functions.

Another level of conceptual issues relates to the general concern that privatization may have unintended effects on public policy:

- Will private providers use their political power to lobby for the development or continuation of programs that may not be in the public interest? Or, will the corrections field, which typically operates without political advantage, benefit from the new lobbying skills of private providers?

- Just as the critics of commercialized hospital facilities fear that a larger share of the burden for providing nonreimbursable public services may be placed on public hospitals, will private facilities "skim off the cream of the crop," leaving the public correctional system with the most troublesome inmate management problems? Or, can contracting agencies develop a conscious policy of distributing contract ventures across populations of differing security and service needs?

- Will the economic motives of business conflict with the objectives of providing decent conditions of confinement? Or, will public agencies develop sufficient proficiency in contract specification and monitoring to resolve this concern?

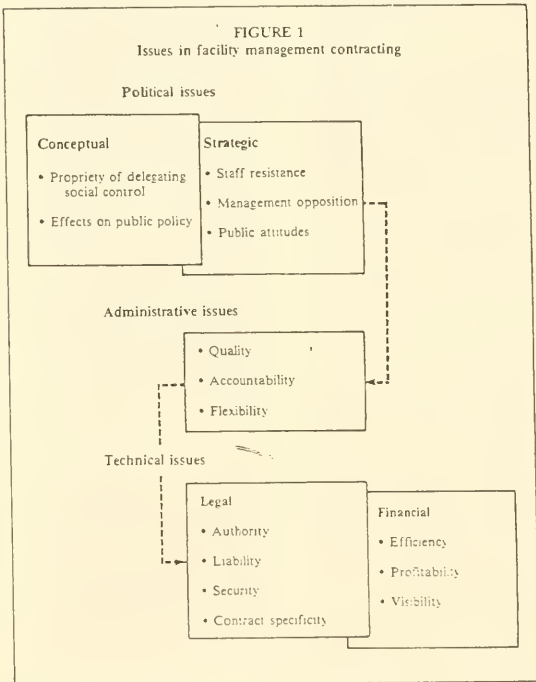
- Will contractors be susceptible to

the "Hilton Inn mentality," referring to the pressure to maintain high occupancy rates even in the absence of demonstrated need? Will the availability of a network of private facilities result in a "widened net of social control" as so often happened with the expansion of community corrections programs? Can payment provisions and careful admission, transfer, and release policies minimize these dangers?

Although no answers are now available, anticipating these issues may assist in controlling any unintended consequences.

2. *Strategic.* In the category of strategic issues, at least three sources of opposition to privately operated facilities can be anticipated. First, public employees may resist the loss of public-sector employment opportu-

FIGURE 1
Issues in facility management contracting



nities. Whether or not there is formal union opposition, some resentment from public employees as well as strained relations between public and private corrections staff may be inevitable—particularly if private providers take over an existing public facility. The Okeechobee facility in Florida faced a good deal of opposition and staff turnover, leading most participants to agree that the time requirements for the takeover were extremely unrealistic.

General public attitudes may also constrain the development of private facilities. Fear about the security of private facilities may join traditional public reluctance to host a corrections facility in the community. In this context, private providers face substantial risk since they have no access to the override powers of government in coping with problems of community resistance.

Finally, corrections management may not be uniformly supportive of private operations that may threaten a loss of agency control. As the NIC survey has noted, "loss of turf" may, in fact, be more of an inhibitor to expanding the role of the private sector than the actual loss of employment for State workers. In short, contracting ventures are certain to require carefully planning precontract and startup activities, thoroughly calculating and communicating the anticipated benefits to the State, and actively lobbying to diffuse these sources of opposition.

Administrative issues. Issues of quality, accountability, and flexibility dominate discussions of the managerial consequences of privatization.

1. *Quality.* Because the private provider is under competitive pressure to perform and is free of civil service restrictions and the cumbersome administrative procedures commonly associated with government operations, many contend that the quality of privately provided services is likely to be superior—at least in the short run. Whether there will be sufficient market pressure to sustain improvements over the long term remains uncertain. Adequate monitoring systems, frequent onsite inspection programs, and judicious rebidding and renewal procedures are the key tools available to ensure continued performance, and need to be carefully designed at the outset.

2. *Accountability.* As respondents to the NIC survey have suggested, the difficulties and the importance of the monitoring function cannot be overestimated. The potential loss of control over agency operations was a major reservation expressed by respondents in considering the liabilities of contracting. Addressing the issue of "who's in charge" requires clearly defining roles and responsibilities in the contract document and continuing efforts to communicate and review performance expectations. While quality control is inherently more difficult when the government is dealing with an independent provider and can exert only indirect control, corrections departments remain accountable for contracted services and will be faced with the need to adapt their supervisory practices in order to create an effective public-private alliance.

3. *Flexibility.* Most observers would agree that contracting offers public agencies the ability to respond to immediate needs with greater flexibility and speed than is typically possible under government operation. In times of severe crowding, this capability is particularly compelling. The possible cost may, however, be constraints on the government's ability to change course over the long term. Transferring facility operations from one contractor to another can be a logistically difficult matter. Contracting also means reducing the public sector's own facility management capabilities, making it more difficult to revert to public management or limiting the personnel pool available to meet future corrections management needs. Finally, fewer publicly operated facilities may mean fewer opportunities to shift staff or inmates among facilities for purposes of staff training or population management.

No one of these issues poses an insurmountable barrier. Many, in fact, become irrelevant if population pressures ease, for the option to terminate contracted facilities is then readily available. All, however, need to be considered in planning the types of facilities and contract arrangements best suited to the circumstances in a given correctional jurisdiction.

Legal issues. Turning to more technical matters, at least four legal issues require careful consideration in the course of planning the development of proprietary facilities:

1. *Authority.* The first issue to be considered is whether States and counties have specific statutory authority to contract with private firms. Even where service contracting is authorized, legislative amendments may be required to permit contracts for primary facility operations. Specific language may also be needed to open contracting to for-profit organizations.

2. *Liability.* While correctional agencies may understandably wish to delegate both the authority and responsibility for facility operations, there is no legal principle to support the premise that public agencies and officials will be able to avoid or diminish their liability merely because services have been delegated to a private vendor. In this context, it becomes crucial to ensure that contractors observe appropriate staff selection and training standards.

3. *Security.* While there appear to be no legal barriers to the delegation of security functions, the issue is central to the debate on the appropriate roles of the State and its private providers. A variety of questions needs to be addressed in defining the proper role of the private sector in corrections management. Should positions that may call for the use of restraining or deadly force (e.g., perimeter security) be retained by the State? What role should the State play in internal disciplinary proceedings? Once again, if the decision is to contract these functions, staff training and supervisory requirements must be carefully specified. In addition to frequent review and inspection by contracting agencies, written client complaint procedures, client access to mechanisms for monitoring abuse, and periodic client surveys have been suggested as useful techniques to ensure the accountability of private providers.*

4. J. Michael Keating, Jr., *Public Ends and Private Means: Accountability Among Private Providers of Public Social Services*, National Institute for Drug Abuse, February 1984.

4. *Contract specificity.* Perhaps the most important contracting issue is the development of appropriate standards of performance to govern the operations of private facilities. Without explicit standards, the goals of profit maximization may well conflict with the State's interest in maintaining safe, secure, humane facilities. The standards of the Commission on Accreditation for Corrections will provide a useful reference in drafting this aspect of the solicitation and subsequent contract.

Financial issues. Last, but among the foremost issues of technical concern, are questions regarding the efficiency, profitability, and cost visibility of private facilities.

1. *Efficiency.* The relative costs of public vs. private management are a highly controversial aspect of the privatization debate. Advocates suggest that private vendors can operate equivalent facilities at lower cost due largely to the staffing efficiency that may be realized in the absence of civil service regulation, lower private-sector pension and benefits costs, and greater market incentives to increase productivity. Critics fear that the costs of private management will escalate once vendors become established, and point also to the costs of monitoring private providers as a potentially large hidden cost of management contracting.

Comparisons are difficult since public and private institutions may differ and the true costs of public facilities are often hard to isolate. The privately operated juvenile facilities described in the Abt report involved costs ranging from roughly \$30 per day at Okeechobee in Florida to \$110 per day at the Weaversville facility in Pennsylvania. The INS facilities for illegal aliens operate on average rates of \$23 to \$28 per day. It is difficult to determine, however, whether any of these facilities are less costly than public institutions, since figures for comparable public facilities are not generally available. Even where adequate data exist, strict cost comparisons may be confounded by the fact that the public corrections function is frequently underfunded. In this situation, higher costs may be a precondition for operating private institutions in accord with minimum professional standards.

Despite the difficulties, rigorous assessments of the cost issue are clearly needed. In fact, respondents to the NIC survey emphasized the importance of conducting a thorough cost-benefit analysis prior to contracting.

2. *Profitability.* The question of whether private providers should profit from providing a public service is an issue of both conceptual and financial concern. Some are offended by the concept of corrections as a business enterprise and fear that profit may be taken at the expense of sound corrections practice. Others point to the equivalent financial motivation of nonprofit organizations, the small and highly regulated opportunities for accruing profit, and the management and fiscal advantages of for-profit status. In the final analysis, choosing a private provider is no more or less than a decision to hire additional staff and is best made by evaluating the provider's history of performance, staff competence, and correctional philosophy, rather than its organizational classification.

3. *Visibility.* One of the advantages typically ascribed to contracting in public-sector areas is its ability to reveal the true costs of the public service. Corrections is no exception. The dollars required to serve particular numbers of clients under specified conditions will be clearly visible and more difficult to avoid through crowding and substandard conditions. While this may be a feature welcomed by correctional administrators, it remains unclear whether legislators and their voters will be prepared to accept the real costs of confinement practices that meet professional standards.

The next steps

Private-sector participation in the adult corrections field clearly raises many complex issues of policy and law not encountered in other fields of human service. As such, it provides a particularly critical test of the limits of privatization—a test that warrants the most systematic planning, implementation, and evaluation efforts. The Abt report identifies at least five circumstances under which careful experimentation with privately managed facilities may prove fruitful:

1. *Rapid mobilization.* Given the widely acknowledged ability of the private sector to move more rapidly to bring additional facilities and manpower on-line, combined with the uncertainty that surrounds future population trends, contracting may be useful at the State level to avoid permanent facility expansion but still accommodate near-term population shifts.

2. *Experimentation.* An agency can test new models of institutional corrections practice without making a permanent commitment or laboring under the constraints to innovation typically present in traditional corrections bureaucracies.

3. *Decentralization.* Greater geographic and programmatic diversity may be possible by calling on local contractors rather than trying to provide the same community-oriented services under the direct control of a centralized agency.

4. *Specialization.* The flexibility of private contractors to satisfy unique demands suggests that contracting for the confinement of offenders with special needs may offer significant relief to general-purpose institutions as well as more opportunities for the successful treatment of the "special management" inmate.

5. *Regionalization.* Finally, the private sector is not typically bound by the jurisdictional politics that might otherwise impede efforts to develop shared facilities among States or counties within a State.

As this list implies, the major challenge is not simply to turn "business as usual" over to the private sector, but to develop true private-sector alternatives to traditional public-sector corrections practices. As one former corrections official has asked, "Are they just going to run an outmoded system more efficiently or are they going to bring some real improvements and new ideas?" If the latter can be achieved, the emerging interest of the private sector in corrections management can only be welcomed.

As Privately Owned Prisons Increase, So Do Their Critics

By MARTIN TOLCHIN

The bleak landscape of correctional institutions in the United States is increasingly becoming the province of private companies and a few nonprofit groups.

About two dozen major correction facilities are owned or operated by private groups, according to the American Correctional Association, which predicts that the number will double in the next 18 months. These are in addition to several hundred adult halfway houses and juvenile centers that private groups began operating in the 1970's.

The trend toward private correction operations was born of overcrowded and antiquated institutions, as well as the entrepreneurial spirit. While Texas and New Mexico have approved legislation to authorize the private operation of correctional facilities, the concept has generated widespread debate.

Supporters see a new efficiency,

greater vitality, flexibility and a reduction in costs. "Our basic mission is to provide correctional services to government in an efficient, cost-effective manner," said Travis Snellings, vice president of the Corrections Corporation of America, based in Nashville.

Sweaters and Insignia

But critics question the concept of making a profit on incarceration and ask whether it is compatible with the administration of justice. They fear an assault on the prisoners' constitutional right to due process of law, and raise questions of accountability.

Dennis E. Bradby runs the Silverdale Detention Center, a 325-bed county facility on the outskirts of Chattanooga, Tenn. Its residents include state prisoners serving long terms for felonies, including murder; county prisoners serving less than a year for misde-

Continued on Page B5, Column 1

As Privately Owned Prisons Increase, So Do Their Critics

Continued From Page A1

means, and a handful serving mandatory 48-hour sentences for driving while intoxicated.

Mr. Bradby works for neither the State of Tennessee nor Hamilton County. Along with the 46 guards, called "resident supervisors," he wears camel-colored sweaters that bear the insignia of his employer, the Corrections Corporation of America, which, like the other companies that run prisons, is privately held.

Decisions That Shape Lives

While he is not a government employee, Mr. Bradby represents the authority of the state and makes routine decisions that affect the lives and legal status of hundreds of prisoners.

One recent day a 20-year-old convict with a stubby beard and ragged T-shirt shuffled across the yard at Sil-

verdale and intercepted Mr. Bradby. "I want to go to my grandfather's funeral," he mumbled, "and I don't need anyone breathing down my back."

"I heard about your grandfather, and I'm truly sorry," Mr. Bradby told the young man, who was serving a six-month sentence for burglary. "But the judge won't give you a furlough. I can send you in handcuffs, and maybe we can take them off in the funeral parlor. But we have to have someone sitting next to you or behind you."

'People Get Very Emotional'

The prisoner declined, unwilling to face his family under such circumstances. "I wanted to accommodate him," Mr. Bradby said later. "But supervision is very difficult at a funeral. People get very emotional."

Senator Arlen Specter, a Pennsylvania Republican, and Representative Robert W. Kastenmeier, a Wisconsin Democrat, plan to hold hearings in the spring on what Mr. Specter calls "the major unexamined new social policy of the 1980's." The Justice Department's National Institute of Justice has scheduled a conference on the issue Feb. 20.

The private takeover of correction operations is representative of a fundamental change in the workings of government. This trend, consonant with President Reagan's philosophy, has been fueled by soaring costs, taxpayer revolts and a desire to reduce the size and scope of government. Consequently, local officials are increasingly turning to the private sector to own, lease and manage hospitals, fire and sanitation departments, schools and other services and facilities.

Supporters say private businesses and nonprofit agencies do a better job because they are insulated from public pressures and free from political interference, patronage obligations and the high salaries and pensions of public employees. They note that the private sector often offers a vitality that is sometimes lacking in civil servants.

Supporters also contend that government has lost any claim to quality correction work.

"The work done in the public sector in the last 30 years has been a dismal failure," said Ted Nissen, president of Behavior Systems Southwest, which runs both Federal and local facilities. "We have a national recidivism rate of 50 percent. I offer to forfeit my contracts if the recidivism rate is more than 40 percent."

But critics contend that correction officers are an integral part of the criminal justice system and perform a quasi-judicial function. They enforce discipline, judge whether infractions have occurred and impose punishments. They also advise parole boards on whether prisoners should be released.

"There's something anomalous



about a person sentenced to prison by a state or Federal judge being charged by a private corporation with an institutional infraction," said Prof. Ira Robbins of the American University Law School.

"We're talking about taking away people's liberties, and I have real questions about the propriety of anyone but the state doing that," said Mark A. Cunniff, executive director of the National Association of Criminal Justice Planners, which represents coordinators and planners of large urban criminal justice systems.

State Monitoring Cited

Supporters of the trend say that the private sector adheres to government guidelines. "Private management of a facility is under the control of government, which sets the policy," said T. Don Hutto, executive vice president of the Corrections Corporation of America. "Our facilities are inspected and monitored by state authorities."

But correction officers acknowledge that they enjoy considerable discretion in performing their duties and that government oversight is sometimes spotty. Only one county official serves as "liaison" at the Chattanooga jail, and he was absent the day a visitor made a tour.

Incarceration is a growth industry. The prison population, consisting of convicted felons, has doubled, to 439,000, in the last decade, according to the Justice Department. There are 224,000 more people in jails, convicted of misdemeanors or awaiting trial. Experts say 60 percent of the nation's correctional centers are under Federal court orders to remedy overcrowding and other inhumane conditions.

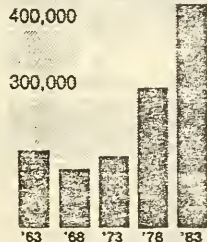
The plight of the prisons has led some civil libertarians to welcome almost any innovation. But others are fearful of private takeovers.

"Everybody wants a Band-Aid solution," said Norman Carlson, director of the Federal Bureau of Prisons, three of whose facilities are run by private corporations. "A number of politicians may use privatization to avoid facing

Behind Bars

Prisoners

Federal and state prison populations.



Incarceration Rate

Number jailed per 100,000 population.

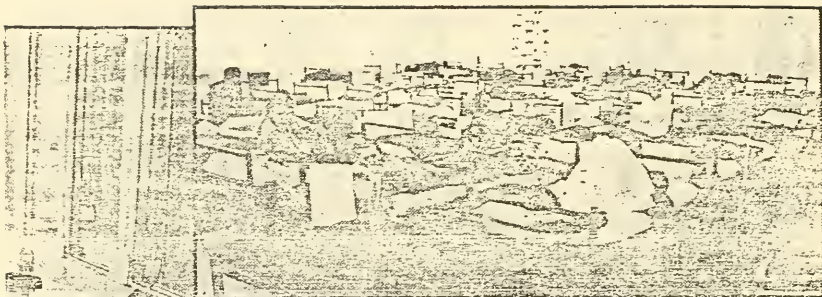
1973



1983



Source: Justice Department



The New York Times/Sob Shira

A guard on duty in a security booth at a 350-bed alien detention center in Texas, and, above, inmates in a dormitory there. Only six Federal officials are assigned to the center, which is owned and operated by the Corrections Corporation of America.

up to the real problems. It's not going to solve our problems. But we ought to go ahead and look at it."

Similarly, Judge Abner Mikva of the United States Court of Appeals for the District of Columbia, said: "My initial reaction is, when you're dealing with people's problems, you ought to look at all conceivable ways to solve them. But the confusion between the objectives of the private and public sectors worries me. Are we looking for an institution to maximize its profits or promote justice?"

In their short history, privately run prisons have had their share of problems, similar to those at public institutions, and critics attribute some of them to an effort to save money.

At one Houston facility a private guard shot and killed an alien trying to escape and wounded another. A depressed 17-year-old Salvadoran alien was removed from another detention center in Houston last November in a catatonic trance. Friends said they had spent six weeks urging that she receive psychiatric help.

In a Florida state training school run by a private, nonprofit foundation, several youths were severely injured in a riot last July. And a young prisoner hanged himself last November at a Pennsylvania juvenile treatment center run by a private corporation.

New Prison Near Pittsburgh

For many years private groups have run small juvenile centers and adult halfway houses. Now, however, they are supervising adults and juveniles who have committed major crimes.

Two brothers, Charles and Joseph Fenton, formed a corporation, Buckingham Security Ltd., that is building a \$20 million, 715-cell maximum security penitentiary north of Pittsburgh. It is intended to house child molesters, those in protective custody and others who need protection from the prison population, and it is expected to draw prisoners from several states.

Charles Fenton had a career in the Federal prison system. He was warden of the penitentiary at Lewisburg, Pa.,

and in that capacity was found by a Federal jury in 1980 to have been among a group of prison officials who inflicted cruel and unusual punishment on two inmates.

The inmates said they were beaten with ax handles while they were handcuffed and shackled after arriving by bus from Atlanta. The jury refused to impose damages on the officials, who said they had merely protected themselves from vicious prisoners who had tried to escape.

Private groups win government contracts by agreeing to operate correction facilities for far less money than the Federal or local governments have been spending. They have greater flexibility in both operating and building prisons, which they construct in six months, as against four or five years with government contracting.

'They're Much More Humane'

Because they are new companies, they tend to have vitality. And some say their employees are more humane than veteran corrections officers. Because they are innovative, they also have been subject to intense scrutiny.

The Rev. Thomas Sheehy, assigned by the Roman Catholic diocese of Galveston-Houston to handle liaison with an immigration detention center run by the Corrections Corporation of America, said, "If I had my choice of this private organization, or it being run by the Immigration and Naturalization Service, I would take this private organization."

"They're much more humane," he added. "The guards haven't been in the business that long, so they're not caloused."

But critics fear that, in addition to the constitutional issues involved, private corporations may develop a vested interest in having the correctional facilities filled and exert political pressure on local governments. They also fear that emphasis on profits could lead to cutting corners on staff, salaries and training as well as on rehabilitation programs. And they say they have already seen evidence of

divided authority, in which prisoners are shunted between a Federal or state agency and the private group that operates a correctional facility.

The trend is so new that there is virtually only one Federal court decision on the issue, *Medina v. O'Neill*, handed down last May. The case involved 16 stowaways placed by the Immigration and Naturalization Service in a single, windowless 12- by 20-foot cell in Houston maintained by Danner, a private security concern. The cell was designed to hold no more than six people overnight.

After two days of detention, the aliens attempted to escape while the guard was taking a telephone call. A private security guard, untrained in the use of firearms, killed one inmate and wounded another.

Chief Judge John Singleton of the Federal District Court in Houston found that the I.N.S. could not delegate its responsibility for the aliens. "Because both immigration and detention are traditionally the exclusive prerogative of the state, it is evident that the actions of all the defendants were state action within the purview of the public function doctrine," he wrote, remanding the case for a decision on damages. Paul Virtue, deputy counsel of the immigration service, said the agency had filed an appeal.

4 Are Killed in Crash Of Ambulance Plane

MEDFORD, Ore., Feb. 9 (AP) — Four people, including a patient, were killed Saturday when an ambulance airplane lost power in both engines as it approached an airport and crashed in a pasture, the authorities said.

There were no survivors of the crash about a half mile from Medford-Jackson County Airport, said Jeff Maldonado, chief sheriff's deputy in Jackson County.

COMPANIES EASING CROWDED PRISONS

Growing Number of Cities and
States Get New Facilities
Under Leaseback Plan

By MARTIN TOLCHIN
Special to The New York Times

WASHINGTON, Feb. 16 — At a time when nearly two-thirds of the nation's prisons are under court order to ease overcrowding and repair dilapidated structures, the states and localities are turning increasingly to private companies for construction help.

Local governments, some in areas that have rejected bond issues or tax increases for new prisons, are contracting with private companies that build the correction facilities and then lease them back to the government.

To encourage such arrangements, Senator Alfonse M. D'Amato, Republican of New York, has introduced legislation to substantially increase the tax benefits available to the companies, providing them with investment and rehabilitation tax credits and accelerated deductions.

"This trend is taking place with or without legislation," Senator D'Amato said in an interview.

Coast-to-Coast Projects

E. F. Hutton has put together a \$300 million prison leaseback plan for the State of California and a \$65 million jail leaseback for the City of Philadelphia, according to Steven D. Binder, senior vice president for the brokerage house.

In addition, Shearson Lehman Brothers has brokered a \$32 million prison leaseback for Kentucky, an \$18 million jail for Los Angeles and a \$15 million jail for Portland, Ore., according to Christopher F. Randolph, a senior vice president of the company.

And Hutton and Shearson are working together on a prison leaseback for the State of Louisiana. Officials at both brokerage houses say they are also negotiating leasebacks with a dozen other cities or counties.

The proposed legislation and the trend toward leasing prisons will be discussed next Wednesday and Thursday at a conference sponsored by the National Institute of Justice.

Congressional Hearings Planned

Mr. D'Amato said he also expected his proposal to be studied this spring at hearings planned by subcommittees of the Senate and House Judiciary Committees on the private operation and ownership of corrections facilities.

The legislation, which is co-sponsored by Senators J. Bennett Johnston of Louisiana, a Democrat, and Paula Hawkins of Florida, a Republican, runs counter to the Reagan Administration's tax plan, which generally would eliminate such tax benefits and preferential treatment.

Senator D'Amato said leaseback arrangements would reduce construction costs by about 25 percent because private builders would not be subject to the same procedural and purchasing constraints, such as competitive bidding, as local governments.

While local governments often take three or four years to build a new correction center because of these constraints, private groups have built such facilities within six months. That is how long it took the Corrections Corporation of America to build a detention center in Houston, used by both the Immigration and Naturalization Service and the Bureau of Prisons.

Voter Approval Not Required

"This is a way to cut the cost to taxpayers," Senator D'Amato said. "We don't have to have these archaic prisons, or replicate prisons that are 100 years old."

Since the locality would merely lease the property, not build the facility, voter approval is not needed to finance a capital improvement.

Mr. D'Amato noted that some critics have expressed concern that this arrangement circumvents the need for voter approval.

"It certainly could be used as a vehicle to circumvent the voting for bonds," he said, "but it's legal, and that's not its purpose."

Danger in Overcrowding Cited

The Senator added that, although he favored private construction and leasing of corrections facilities, he opposed their operation by the private sector.

"I am very reluctant to have private concerns get into the business of prison operation," he said. "It could be a very false economy that could come back to create tremendous problems and end up costing us more."

The National Institute of Justice said in a recent study, "Despite the rising levels of tension and danger for staff and inmates, overcrowded and dilapidated housing has been widely viewed as justifiable punishment, and bond issues for prison and jail construction have been adversely affected."

But Senator D'Amato asserted that some cities and counties "just can't afford" to float new bond issues. "Their credit ratings aren't good," he said.

Prototype Project in Colorado

Hutton said the leaseback plan was first developed by Mr. Binder, the Hutton executive, for Jefferson County, Colo., when the county was under Federal court order to relieve overcrowding of an antiquated facility.

Voters in the county had twice rejected a proposal to raise the sales tax to finance a new jail.

Through Mr. Binder's efforts, Imperial Leasing, a Los Angeles company, provided \$30.2 million to build a jail for 382 inmates. The jail, now under construction, is expected to open in September. The county will lease the facility until 1992, when it is expected to have repaid the \$30.2 million at 8.75 percent interest. The county will then own the facility.

"Jails are expensive," Mr. Binder said. "People don't want a jail in their neighborhood. They would rather spend money on schools, parks and transportation. But they want the criminals off the streets."

Jails Run by Private Company Force

By MARTIN TOLCHIN

The growing trend toward privately operated jails has led to new questions about accountability and prisoners' rights that are being addressed every day by the Corrections Corporation of America, which operates detention facilities in Texas, Tennessee and North Carolina.

The privately held company cares for more prisoners than any other non-public concern. Put together in 1983 by the Massey Birch Investment group of Nashville, which also provided financing for the Hospital Corporation of America, C.C.A. has become a target for critics of private prisons and a model for other operators.

With prisons severely crowded in the early 1980's, several companies moved to own or operate correctional facilities. Today about two dozen detention centers, including the four run by C.C.A., are privately operated. That trend will be the subject of a three-day conference to begin in Washington tomorrow under the auspices of the National Institute of Justice.

A dispute at the company's alien detention center in Houston exemplifies what critics say is one growing problem for the privately operated correctional facilities: who is accountable for the welfare of the incarcerated?

Proposal for a Library

The Rev. Roberto Flores of the Houston Center for Immigrants was concerned that aliens held in the detention center grew increasingly depressed as they idled away weeks and sometimes months. He suggested providing a library, and he said others proposed counseling and English lessons.

But whenever they pressed for an official response, Father Flores said, "they were shunted between the Corrections Corporation of America, which owns and runs the 350-bed center, and the Immigration and Naturalization Service, which detained the aliens and oversees the institution.

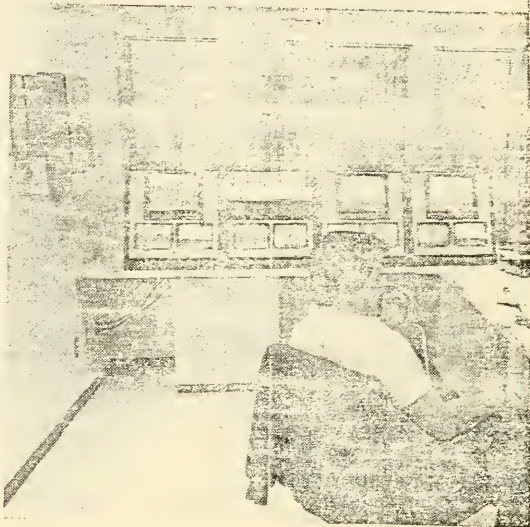
Although officials finally set aside a room as a library, there is no librarian, and the few donated books have disappeared. None of the other suggestions have been put into effect.

"Whenever we have a problem, I.N.S. tells us to go to C.C.A., and C.C.A. tells us to go to I.N.S.," Father Flores said.

John S. Robinson, a C.C.A. employee who administers the facility, said, "We have certain requirements under the contract that we have to abide by."

In addition to its Houston facility, C.C.A. is building a new immigration service center in Laredo, Tex., and it runs a multipurpose facility in Chattanooga, Tenn., a juvenile facility in Memphis and a 30-bed facility for the Federal Bureau of Prisons in Fayetteville, N.C.

The Houston facility is also used by the Federal Bureau of Prisons to incarcerate aliens convicted of crimes. They are kept separate from those the immigration service suspects of being in this country illegally.



A security guard watching monitors in the control booth at the Houston detention center. The 350-bed facility was built in 1983.

Critics consider corrections facilities an integral part of the criminal justice system and question whether profits should be made from incarceration. In addition to raising questions of accountability, they fear an assault on prisoners' constitutional rights.

In a brochure, C.C.A. touts the benefits in efficiency to be reaped by governments that do business with the company. "Other benefits include reduced pressure from the courts for reform and upgrading," it adds.

Model of Cleanliness

Is C.C.A. suggesting that it can help governments circumvent court-ordered improvements in correctional facilities? "Most courts ask for a demonstration of good faith that a state or county will correct the problems," said Thomas Beasley, the company's president. That demonstration of faith occurs, he said, when a government signs a contract with his company.

The company's Houston facility, which opened in April, is a one-story model of spaciousness and cleanliness. Men live in 50-bed dormitories. The company built the center in six months at a cost of \$4 million. Immigration officials say the Federal Government would have needed up to five years to build a similar center because of competitive bidding and other regulations.

"Our facilities don't begin to approach this one," said Paul O'Brien, district director of the immigration service.

Travis Snellings, vice president for marketing of C.C.A., said the quality of the facilities helped reduce personnel costs. "Miserable working conditions, low pay and low self-esteem produce worker absenteeism," he said. "We don't have nearly the turnover, absenteeism or overtime that plagues the public sector."

The Federal Government spends \$26.45 a day for each resident at its own immigration detention centers. C.C.A. charges the Government \$23.84.

Corrections officers hired by the company start at \$14,500 a year, as against \$15,000 for those at the immigration service. Fringe benefits for the private officers are far more meager, as is their training.

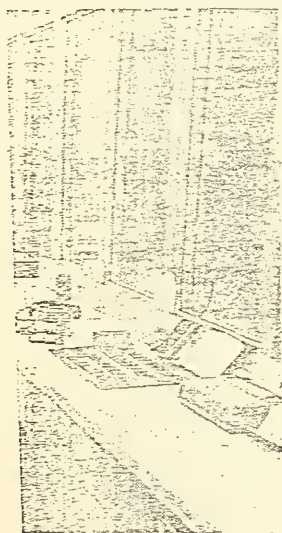
Immigration officers spend six weeks at the Federal Law Enforcement Training Center at Glynco, Ga., for a total of 240 hours.

By comparison, C.C.A. says it gives its corrections officers 40 hours of training, half of it in on-the-job settings, before they begin work, and an additional 120 hours the first year. At the Houston facility, however, only 40 percent of the staff has had the additional 120 hours' training in the 10 months since it opened.

'I'm the Supreme Court'

Mr. Robinson's job includes overseeing disciplinary cases that arise from fighting or other infractions at the Houston facility. The cases are heard by company employees. Penalties

It to Face Question of Accountability



The New York Times/Doc Searls
 tion center owned and operated by the
 ix months at a cost of \$4 million.

range from restriction to a dormitory to 72 hours in isolation. "I review every disciplinary action," Mr. Robinson said. "I'm the Supreme Court."

The case of a depressed 17-year-old woman who was sent to Mr. Robinson's facility is related by Father Flores, the Rev. Thomas Sheehy, assigned by the Roman Catholic Diocese of Galveston-Houston to handle liaison with the im-

migration detention center, and Sister Carla Maria Crabtree, diocesan director of Hispanic ministries.

The alien, a native of El Salvador, was apprehended in July and placed in a county facility. In September she was transferred to the C.C.A. facility, where she worked in the kitchen and earned the customary \$3 a day. Her friends, disturbed by her depression, sought vainly to alert the company to the problem, but not until Thanksgiving, when she was catatonic, was she seen by a psychiatrist and taken to Ben Taub Hospital in Houston. Ultimately, Father Sheehy took her to Reynosa, Mexico, to be with family members.

"They certainly did not act on it right away," Father Sheehy said. "If they had a psychotherapist, I'm sure they would have picked it up sooner."

Budget Problems Cited

The facility has no room for a psychotherapist in its budget, however, according to both company and immigration officials. Immigration officials said that in Federal facilities, inmates with obvious emotional problems were routinely seen by psychiatrists of the United States Public Health Service.

The company also runs a medium-security adult facility in Chattanooga. Dalton Roberts, the Hamilton County Executive, cited cost and efficiency as the main reasons for turning to private operation. "Their research showed that they could run it a little cheaper," Mr. Roberts said. "Also, it was taking a toll on my entire administrative staff, and on me. Since they've run it, I haven't spent one-tenth the time on it."

C.C.A. charges \$21 an inmate a day, \$1 a day less than it cost the county. The company took over the 225-bed facility in October and offered to hire all the county employees who had worked there. Most joined the company.

For some time, many small juvenile facilities have been run by private companies. C.C.A. runs Tall Trees, a

facility in Memphis for 35 youths. Shelby County pays \$32.25 a day for each youth, less than half the cost at the state training school.

The youths attend the public schools. But about a dozen inmates spent one recent morning in the day room, silently watching television. Tim Maguigan, administrator of the facility, said that counselors did not arrive until after school, and youths who did not attend school were left to fend for themselves.

"We have a small staff," Mr. Maguigan said. "We don't have any fat."

Tall Trees has a five-step program that rewards the youths for keeping appointments, performing chores and working with peers and staff.

A more ambitious juvenile treatment center, the Weaversville Intensive Treatment Unit, outside Allentown, Pa., was established by the RCA Corporation in 1976.

"We deal with the serious chronic offender," said Henry J. Gursky, the project manager. "It's a dangerous business. The worst possible scenarios do occur."

Each of the 22 inmates, 14 to 18 years old, has either committed a violent felony, such as armed robbery, rape or arson, or a string of lesser crimes, such as burglaries or assaults. About 85 percent have drug-related problems.

The building resembles a college dormitory. The residents have keys to their own carpeted rooms.

"Physically, this is better than most of their homes," Mr. Gursky said. "But what isn't cushy is that we see their every move. Emotionally, it's very tense."

Newer private operators, such as the Corrections Corporation of America, are optimistic as they begin to build their track records. In the nine years the Weaversville facility has been operating, Mr. Gursky says, 5 youths went on to college and 10 went into the military.



COUNCIL OF PRISON LOCALS
 AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

(AFL - CIO)

1 3 • 4 • 5 • 6

26 Henry Street
 New Britain, CT 06051
 (203) 223-7981

March 14, 1985

Congressman Robert Kastenmeier
 Chairman, Judiciary Committee
 Subcommittee on Courts, Civil Liberties
 and Administration of Justice
 U.S. House of Representatives
 Washington, D. C. 20515

Dear Congressman Kastenmeier:

I would like to advise you of an issue affecting uniform employees of the Bureau of Prisons (BoP). The uniform allowance is inadequate and needs to be raised to \$400.00 initial issue and \$175.00 yearly maintenance.

I understand that there is precedence in HR 5618 as passed by the 98th Congress. Since the 1960's, the uniform allowance has remained at the same level, \$125.00 per year. The Bureau of Prisons currently has a uniform requirement. If this uniform is purchased from the approved source, it would cost a new employee \$660.00, not including coats (winter, rain, etc.).

Therefore, the probationary employee must pay \$537.00 just to get a job. The employee already receiving a uniform allowance cannot even maintain the uniform on \$125.00. Most employees do not have a full uniform. They do not purchase blazers, nickel grays, or adequate number of shirts/blouses, and slacks. This results in their having to do laundry several times a week, work on posts feeling either too warm or too cold, etc.

Also, the BoP has uniform appearance as an element on the performance evaluation. For an employee to receive an "exceeds" on their evaluation, the standards states:

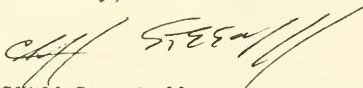
No instance during the rating period when employee was counseled for violation of uniform regulation, plus employee's overall uniform is meticulous in appearance.

With the current uniform allowance, this is impossible without going into ones own pocket.

I would hope that you would sponsor a bill to increase the uniform allowance of employees of the BoP to provide adequate funds to purchase a complete uniform when hired and to have an adequate amount for maintenance.

If you need any further information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cliff Steenhoff".

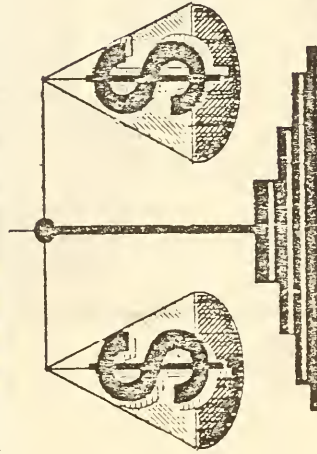
Cliff Steenhoff
Northeast Regional Vice President

Cost of uniform (from approved sources, where they exist and from Sears); number of items based on previous BOP issuing levels:

| Number of items | Item | unit cost | total cost |
|--------------------|----------------------|-----------|------------|
| (2) | Blazer @ | \$62.00 = | \$124.00 |
| (4) | Slacks @ | 21.50 = | 86.00 |
| | Shirts | | |
| (6) | Long sleeve @ | 15.99 = | 95.94 |
| (6) | Short Sleeve @ | 14.99 = | 89.94 |
| (1) | Belt @ | 6.99 = | 6.99 |
| (2) | Tie @ | 3.99 = | 7.98 |
| | Nickel Grays uniform | | |
| (3) | Long sleeve @ | 12.99 = | 38.97 |
| (3) | Short sleeve @ | 10.99 = | 32.97 |
| (3) | Trousers @ | 14.99 = | 44.97 |
| (2) | Oxford shoes @ | 44.99 = | 89.98 |
| (1) | Work boots @ | 44.99 = | 44.99 |
| | Total | | 662.73 |

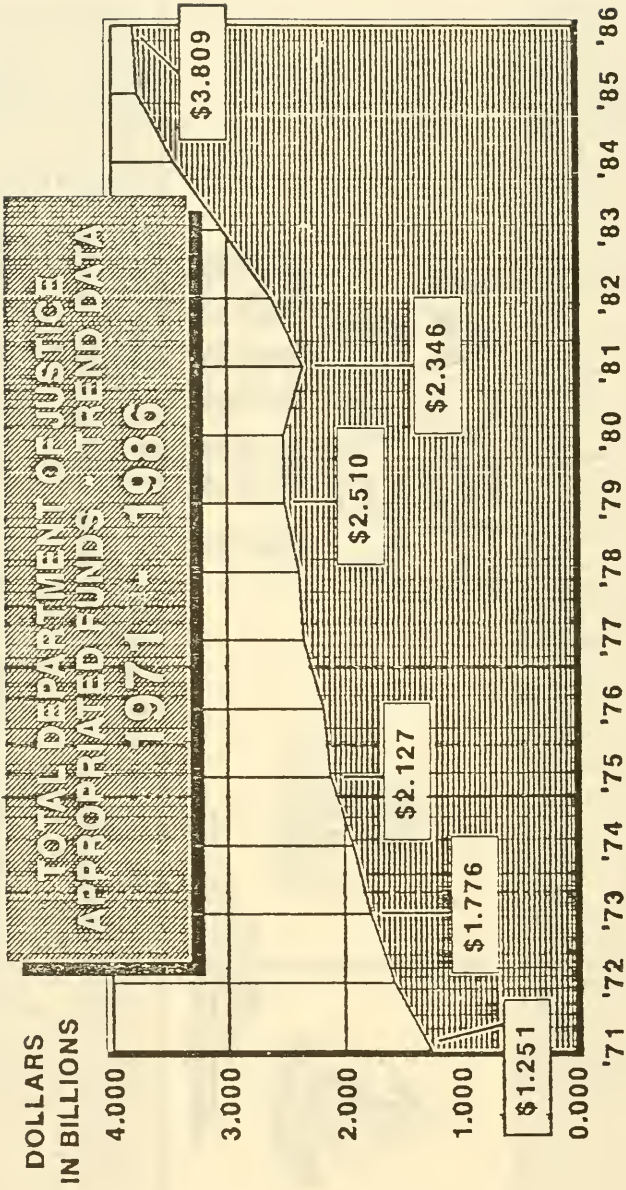
Items such as raincoats, winter coats, hats, etc. are not included in these figures.

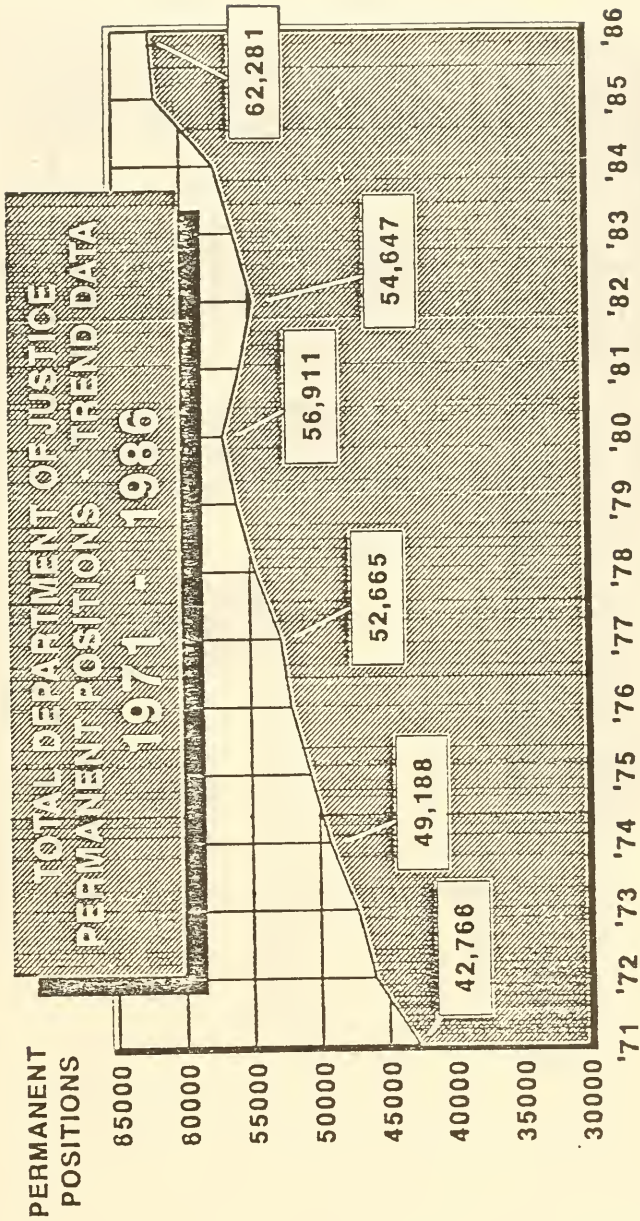
DEPARTMENT OF JUSTICE



FISCAL
YEAR
1986

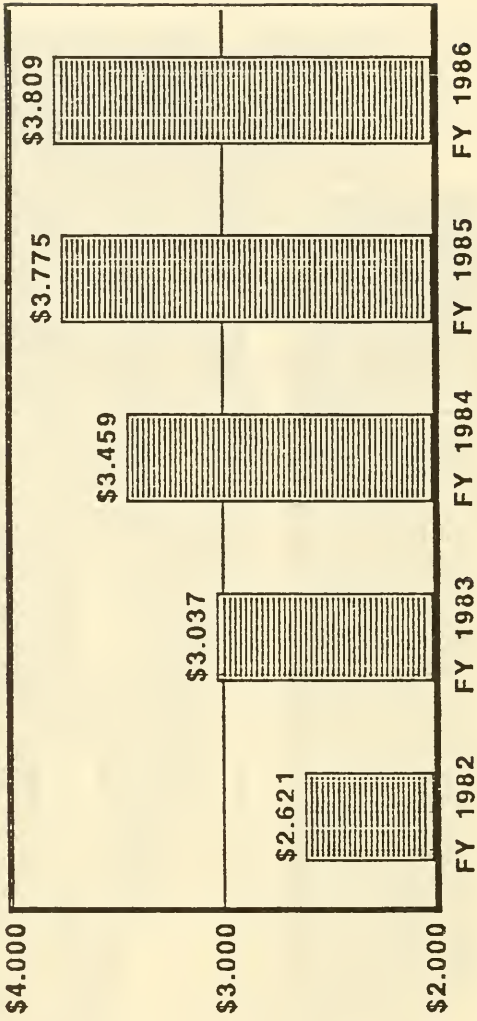
PRESIDENT'S BUDGET REQUEST





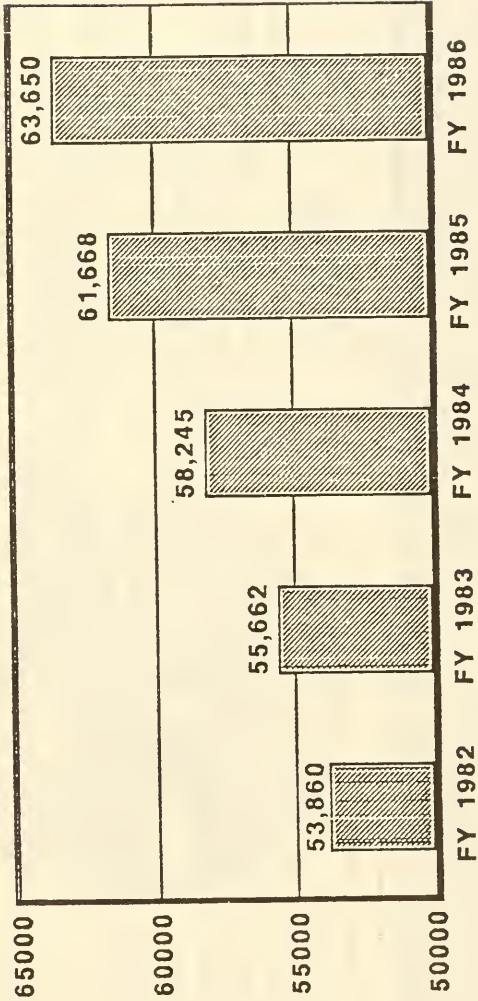
TOTAL DEPARTMENT RESOURCES BUDGET AUTHORITY

DOLLARS
IN BILLIONS



**TOTAL DEPARTMENT RESOURCES
FULL-TIME EQUIVALENT WORK YEARS**

(FTE)
WORK YEARS



DEPARTMENT OF JUSTICE 1986 BUDGET REQUEST

Federal Prison System
\$606 Million

Immigration and Naturalization Service
\$577 Million

Drug Enforcement Administration
\$346 Million

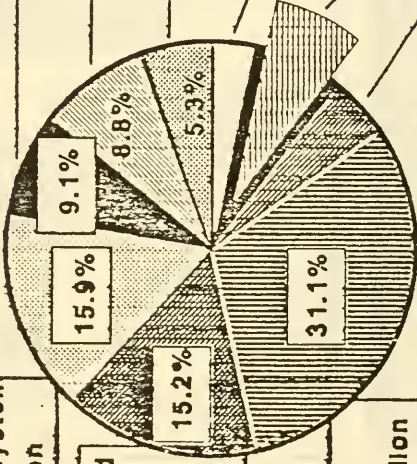
U.S. Attorneys - \$334 Million

General Legal Activities -
\$200 Million

U.S. Marshals Service - 3.8%
\$145 Million

All Other 7.2% - \$276 Million

Office of Justice Programs - 3.6%
\$139 Million

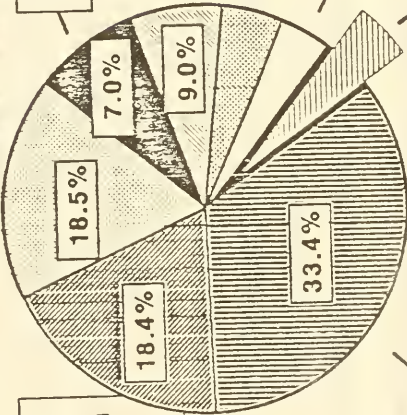


TOTAL REQUEST \$3.809 Billion

**DEPARTMENT OF JUSTICE - 1986
TOTAL FULL-TIME EQUIVALENT
(FTE) EMPLOYMENT CEILINGS**

**Federal Prison System
11,760**

**Immigration
and
Naturalization
Service
11,709**



**Drug Enforcement
Administration - 4,453**

U.S. Attorneys - 5,739

**General Legal Activities - 5.0%
3,219**

**U.S. Marshals Service - 4.3%
2,728**

**ALL OTHER - 4.4%
2,812**

**TOTAL CEILING
63,600 (FTE)**

**Federal Bureau of
Investigation - 21,230**

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

- III IMPLEMENTATION OF NEWLY ENACTED LEGISLATION.
 - Comprehensive Crime Control Act of 1984.
 - Crime Victims and Assets Forfeiture Funds.
 - 85 Additional Federal Judgeships.
-
- III INITIAL IMPLEMENTATION RESOURCES FOR THESE INITIATIVES WILL BE PROVIDED PRIMARILY THROUGH 1985 SUPPLEMENTS.
-
- III THE PRESIDENT'S BUDGET REFLECTS ANNUALIZATION OF THE 1985 RESOURCES TO PROVIDE FULL-YEAR FUNDING IN FY 1986.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

Comprehensive Crime Control Act of 1984.

| | POSITIONS | FTE | DOLLARS |
|--------------------------------|-----------|-----|--------------|
| 1985 Partial Year Costs. | 837 | 249 | \$22,246,000 |
| 1986 Full Year Costs. | 837 | 837 | \$70,000,000 |

① NINE DEPARTMENT APPROPRIATIONS HAVE SHARES OF THE REQUESTED FUNDING.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

III CRIME VICTIMS FUND.

- Managed By Office Of Justice Programs.
- Authority To Grant Up To \$100 Million Per Year - If Receipts Warrant - For State and Local and Federal Victims Programs.

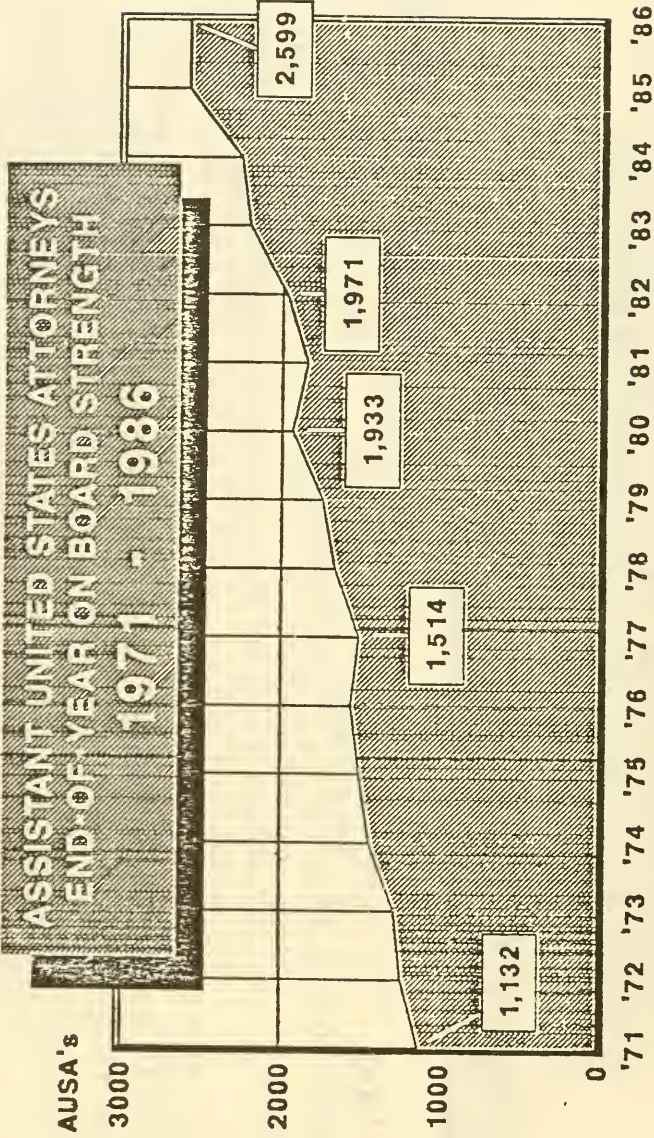
III ASSETS FORFEITURE FUND.

- Managed By U.S. Marshals Service.
- Seeking Authority To Use \$5 Million In 1985 and \$20 Million In 1986 For Management Of Seized / Forfeited Assets.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

86 Additional Federal Judgeships

| | POSITIONS | FTE | DOLLARS |
|--------------------------------|--------------------|------------|---------------------|
| 1985 Partial Year Costs. | U.S. Attorneys | 398 | \$12,945,000 |
| | U.S. Marshals Ser. | 59 | \$1,516,000 |
| | Total 1985 | 457 | \$14,461,000 |
| 1986 Full Year Costs. | U.S. Attorneys | 398 | \$20,069,000 |
| | U.S. Marshals Ser. | 59 | \$2,396,000 |
| | Total 1986 | 457 | \$22,465,000 |



AUSA'S

3000

2000

1000

0

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

FBI INITIATIVES

- ③ THIRD YEAR OF PRESIDENT'S INITIATIVE TO STRENGTHEN FBI'S FOREIGN COUNTERINTELLIGENCE CAPABILITY.

- ③ CONSTRUCTION OF A THIRD DORMITORY AT THE FBI ACADEMY AT QUANTICO, VIRGINIA.

- ③ DIRECT FBI FUNDING OF THE NATIONAL CENTER FOR THE ANALYSIS OF VIOLENT CRIME.

NUMBER OF AGENTS

12000

10800

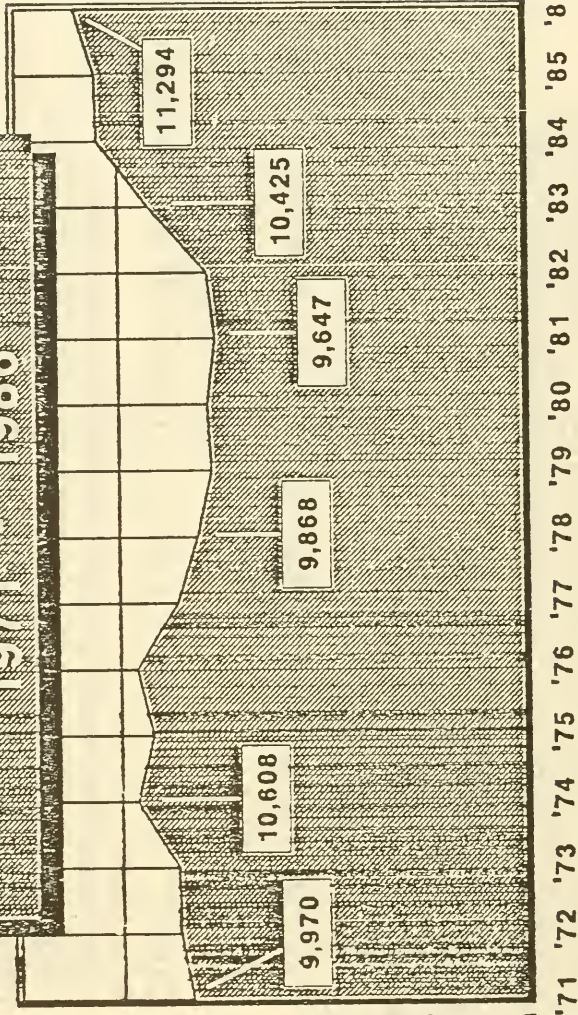
9600

8400

7200

6000

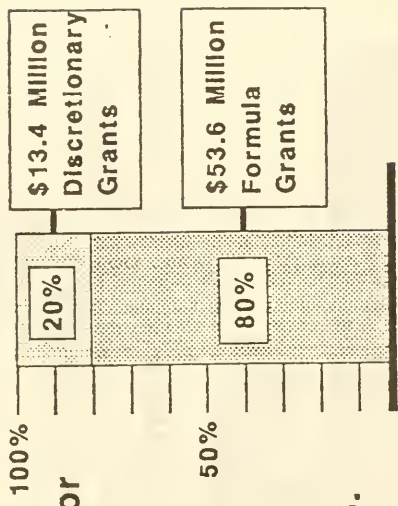
FBI and DEA AGENT STAFFING
END-OF-YEAR ON BOARD STRENGTH
1971 - 1986



MAJOR THRUSTS OF 1986 JUSTICE BUDGET

State and Local Assistance

\$67 Million - 1986



- ① \$61 Million In New Funding For Office Of Justice Program's State and Local Assistance Program.
- ② New Funding Plus Base Funding Will Make A Total Of \$67 Million Available In 1986.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

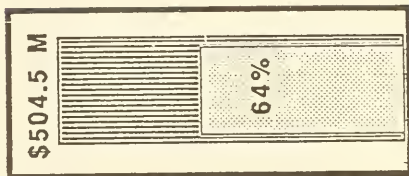
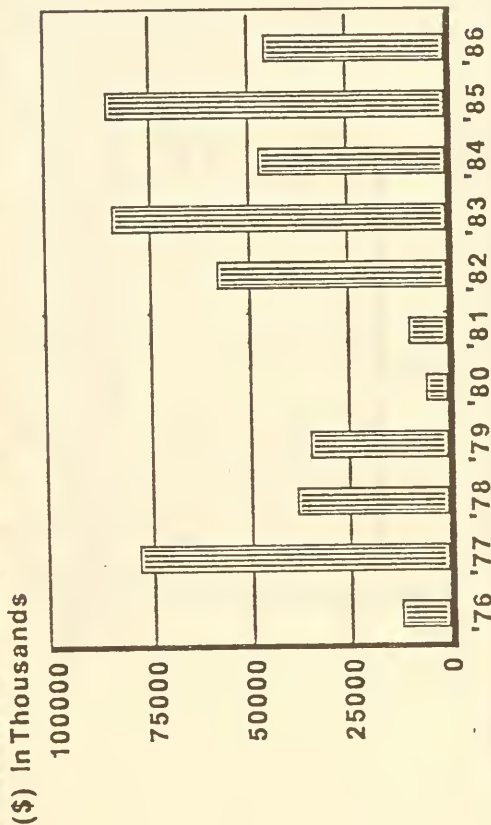
FEDERAL PRISON SYSTEM

- ③ \$36 MILLION IN NEW FUNDING FOR FIFTH YEAR OF MAJOR INVESTMENT IN FEDERAL PRISON EXPANSION AND MODERNIZATION.

- ③ \$17 MILLION FOR ACTIVATION OF NEW FEDERAL PRISON HOUSING UNITS - PRINCIPALLY THE OAKDALE, LOUISIANA, ALIEN DETENTION CENTER (1,000 BEDS).

**FEDERAL PRISON SYSTEM - FY 1976 to FY 1986
BUILDINGS and FACILITIES APPROPRIATION**

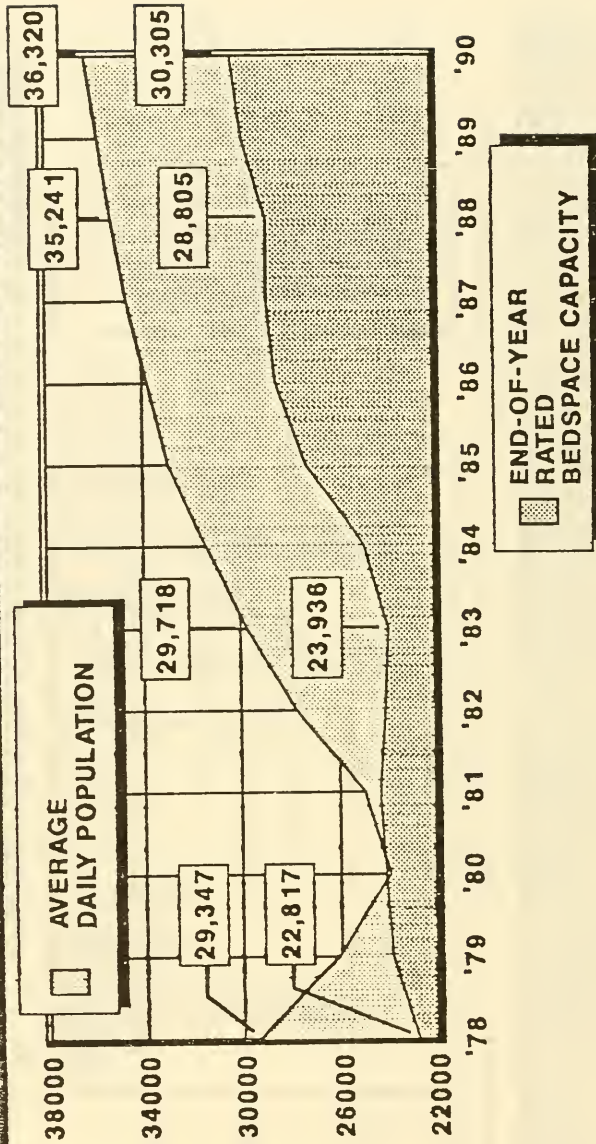
Total Investment



FY '76 - FY '86

Over Five Years, Reagan Administration Investment
Totals \$322.9-Million or 64% of the Total for 11 Fiscal Years.

FEDERAL PRISON SYSTEM - FY 1978 to FY 1991
Average Daily Population vs. Rated Bedspace Capacity



MAJOR THRUSTS OF 1986 JUSTICE BUDGET

Local Jail Construction, Rehabilitation, Modernization

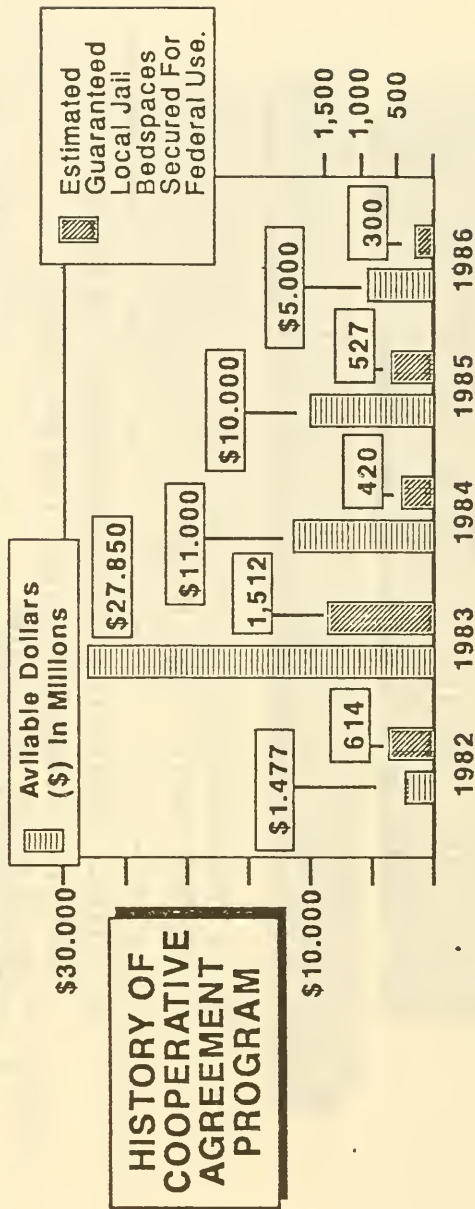
- ③ \$5 MILLION FOR SUPPORT OF U.S. PRISONERS COOPERATIVE AGREEMENT PROGRAM (CAP).

- ③ TOTAL FUNDING AVAILABLE FOR THE CAP INITIATIVE SINCE INCEPTION IN 1982 IS \$55.327 MILLION.

- ③ ESTIMATED GUARANTEED LOCAL JAIL BEDSPACES SECURED FOR FEDERAL USE WITH CAP FUNDING TOTALS 3,373 BEDSPACES.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

Local Jail Construction, Rehabilitation, Modernization



MAJOR THRUSTS OF 1986 JUSTICE BUDGET

MANAGEMENT SAVINGS

- ① \$69 MILLION - PRESIDENT'S PROPOSAL TO REDUCE FEDERAL EMPLOYEES SALARY BY 5 PERCENT BEGINNING JANUARY 1986.
- ② \$1.6 MILLION - SECOND PHASE OF GRACE COMMISSION RECOMMENDATION TO STREAMLINE INS' MANAGEMENT RELATED FUNCTIONS.

MAJOR THRUSTS OF 1986 JUSTICE BUDGET

PROGRAM REDUCTIONS

- ⊙ \$17.4 MILLION - 10% MANAGEMENT AND ADMINISTRATION REDUCTION.
- ⊙ \$67.6 MILLION - JUVENILE JUSTICE PHASE OUT.
- ⊙ \$9.4 MILLION - ELIMINATE EXECUTIVE OFFICE FOR U.S. TRUSTEES.
- ⊙ \$5.4 MILLION - ELIMINATE REGIONAL INFORMATION SHARING SYSTEMS.
- ⊙ \$5 MILLION - ELIMINATE MARIEL CUBAN GRANTS TO STATE / LOCAL CORRECTIONAL FACILITIES.
- ⊙ \$5 MILLION - DIRECT FUNDING FOR INS INSPECTIONAL OVERTIME TO BE REPLACED BY REIMBURSEMENTS FROM CARRIERS.
- ⊙ \$2.2 MILLION - PRESIDENT'S COMMISSION ON ORGANIZED CRIME PHASE OUT.

PRISON EMPLOYMENT
SECURITY ACT OF 1984

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SAM B. HALL, JR. Mr. Speaker, I am introducing today a bill to require a General Accounting Office [GAO] study on the prevailing rate positions within the Bureau of Prisons and to place a temporary moratorium on the downgrading of these positions within the Bureau pending the findings of the GAO audit. This would not limit the Bureau's authority to reassign or discipline personnel to adequately meet personnel requirements within the Federal Prison System.

Recently, the House of Representatives amended the fiscal year 1985 continuing resolution to include crime control language which, among other things, strengthened the sentencing for certain classes of criminals. Too often we forget that these actions have ramifications not only for the criminals and the society we seek to protect, but also for the correctional system.

Earlier this year in hearings before the Appropriations and Judiciary Committees, serious problems within the Federal Prison System were brought to the attention of the House. One particular problem highlighted in the hearings was the downgrading of 74 percent of the wage board (blue collar) supervisory positions in the Bureau of Prisons. This affects over 1,100 Federal workers who directs inmates in prison industries and maintenance services.

The problem first appeared in 1982, when the Bureau of Prisons downgraded the WS standard of these Federal positions by tying that standard directly to the job skill rating of the inmate population—that is, supervisory positions were reduced in grade if and when the job skill level of the inmate populations, resulting from the influx of unskilled inmates, was reduced. Although the Office of Personnel Management [OPM] originally opposed this action it is now allowing the Bureau to assign simulated levels below journeyman when inmates are relatively new.

This downgrading action has been disastrous for Bureau of Prisons employees in these supervisory positions. Too, lowered morale of employees, increased turnover of positions, and recruitment problems have adversely affected security in the prisons.

Although there is very little time remaining in this session, I will reintroduce this bill in the 99th Congress as a matter of personal priority. This measure will send a clear message to the Office of Personnel Management and the Department of Justice that Congress is concerned about the treatment of corrections personnel and the safe and efficient functioning of Federal Prisons and Federal Prison industries.●

The New York Times

84% Repeat Offender Rate Examined

By **LESLIE MAITLAND WERNER**

Special to The New York Times

WASHINGTON, March 3 — Almost 84 percent of arriving inmates at state prisons around the country in 1979 were repeat offenders, according to a study conducted by the Bureau of Justice Statistics and made public today.

The study reported that 61 percent had been imprisoned previously, and that 42 percent were on probation or parole for an earlier conviction at the time they entered prison. About 28 percent of those who entered prison would still have been jailed for an earlier offense had they served the maximum term to which were sentenced.

The study involved interviews with a sample of inmates nationwide.

Another report on crime, released today by the Eisenhower Foundation, says that violence by young repeat offenders has become more frequent and more serious. It describes street crime as "a form of slow rioting" requiring social action in terms of economic development, youth employment and community programs.

Deterrence 'Did Not Work'

The authors of this report, "American Violence and Public Policy," maintain that "deterrence during the 1970's through more efficient police, courts and prisons did not work, in part because these agencies can merely react to crime, not prevent it."

The study by the Bureau of Justice Statistics of the Justice Department takes a different point of view, placing the emphasis on law enforcement. Assistant Attorney General Stephen S. Trott, who heads the department's Criminal Division, said the findings indicated how much crime could be reduced "if criminals actually served the increased sentences which could be imposed under present law."

"It is particularly disturbing," he said, "to see that about one-fourth of all

the crimes committed by the prisoners studied were committed while they would have been in prison if they had served the maximum sentence."

Steven R. Schlesinger, director of the bureau, said the study raised "serious questions" about probation and parole decisions. But he said it was impossible to determine from the study how much crime might be avoided through sentencing policies.

He Rejects That Conclusion

Lawrence A. Greenfeld, the statistician who wrote the report, rejected the idea that the figures indicated parole had been a failure. The study, he said at a briefing Friday, focused only on those who returned to prison. "Half did not return to prison," he said.

Parole for Federal crimes is scheduled to be abolished under the Comprehensive Crime Control Act of 1984. Under the act, a system of fixed, or determinate, sentences for Federal offenses will be established in late 1986, eliminating parole for new offenders.

The study of state inmates showed that most repeat offenses occurred shortly after release from prison. About 60 percent of those who will return to prison in 20 years, it found, do so in the first three years.

Age was a significant factor in the rate of return to prison, according to the study, with the youngest released prisoners the most likely to commit new crimes. Almost 22 percent of those 18 to 24 years of age return to prison within a year of release. But that figure drops to 12 percent for the 25-to-34-year-old group; to 7 percent for those 35 to 44; and to 2 percent for those older than 45.

Half of the youngest group were returned to prison within seven years, but only 12 percent of those in the oldest category, the study found.

The study also found that repeat offenders were much more likely than

first-time offenders to have a family member who was imprisoned.

The general rate of imprisonment has been increasing throughout the country, the study said. In 1978, for example, there were 7.2 court commitments to prison for every 10,000 adults. But that figure climbed to 10.1 in 1983.

"The increased reliance on imprisonment is not simply a reflection of hardening public attitudes," it said. "It is also based upon the growing body of knowledge about criminal careers and the likelihood that many offenders will continue to commit crimes after they are released from prison."

Rate Is Third Highest

This increased rate is a subject also addressed in the Eisenhower Foundation study, which was financed by the Ford Foundation and published by Yale University Press. Among industrial countries, only South Africa and the Soviet Union have higher rates of imprisonment than the United States, the book says.

The study, by 12 authorities, is a 15-year updating of a 1969 report to the White House by the National Commission on the Causes and Prevention of Violence, known as the Eisenhower Commission. It was created by President Johnson after the assassinations of Martin Luther King Jr. and Robert F. Kennedy. The Eisenhower Foundation is the re-creation in the private sector of the commission.

Lynn A. Curtis, president of the foundation, said, "The police are limited in what they can do to prevent crime."

...er city groups can organize their neighborhoods against crime because residents have a stake in their own turf," Dr. Curtis said. "Such crime prevention must be based not as an end, but as a means to secure the neighborhood for economic development, minority business, housing rehabilitation and minority youth employment. This addresses the cause of crime."

STATEMENT OF
CLIFF STEENHOFF
LEGISLATIVE CHAIR

BUREAU OF PRISON COUNCIL
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

TO THE

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE
ADMINISTRATION OF JUSTICE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ON THE

FY 1986 BUDGET FOR
THE BUREAU OF PRISONS

APRIL 1, 1985

On behalf of all the non-management personnel in the Bureau of Prisons (BOP), I would like to thank the Committee for the opportunity to submit this statement on the President's budget proposal for FY 1986.

Last year, AFGE came to Congress to tell our elected representatives that the Federal Prison System was in crisis. We told Congress of the five correctional officers who had been killed in a thirteen month period. We gave our views of a system which is breaking under the strains of increased societal demands, inadequate resources, and an insensitive management.

Since that time we have seen some positive actions. Congress saw fit to provide funding for an additional 200 correctional officers. BOP management has been (with some exceptions) more cooperative in working on our common problems. No one has been killed in the last year. That is the good news.

The bad news is that the most pressing problems still remain and in fact are getting worse. We are attaching a list (Table I) of federal prisons and the overcrowding (as a percent of the designed capacity). As this list shows, we are literally stacking prisoners in the hallways. As a correction officer, I am telling you that this overcrowding is a ticking time bomb which no one seems willing to look at.

| Institution | State | Design Capacity | BOP's Count 2/5/85 | % of design capacity |
|--------------|-------|-----------------|--------------------|----------------------|
| ATLANTA | GA | 868 | 2297 | 264.63% |
| MIAMI | FL | 326 | 665 | 203.99% |
| ASHLAND | KY | 416 | 756 | 181.73% |
| DANBURY | CT | 621 | 1086 | 174.88% |
| LA TUNA | TX | 443 | 769 | 173.59% |
| TUCSON | AZ | 187 | 324 | 173.26% |
| MONTGOMERY | AL | 256 | 439 | 171.48% |
| SEAGOVILLE | TX | 355 | 592 | 166.76% |
| NEW YORK | NY | 458 | 756 | 165.07% |
| TEXARKANA | TX | 544 | 885 | 162.68% |
| SAFFORD | AZ | 207 | 324 | 156.52% |
| OTISVILLIE | NY | 438 | 662 | 151.14% |
| TALLAHASSEE | FL | 536 | 796 | 148.51% |
| PLEASANTON | CA | 351 | 517 | 147.29% |
| EL RENO | OK | 897 | 1314 | 146.49% |
| EGLIN | FL | 496 | 722 | 145.56% |
| ALLENWOOD | PA | 382 | 553 | 144.76% |
| TERMINAL IS. | CA | 614 | 878 | 143.00% |
| MEMPHIS | TN | 424 | 597 | 140.80% |
| SANDSTONE | MN | 467 | 631 | 135.12% |
| TALLADEGA | AL | 511 | 682 | 133.46% |
| BASTROP | TX | 472 | 626 | 132.63% |
| OXFORD | WI | 476 | 622 | 130.67% |
| BORAN | CA | 248 | 308 | 124.19% |
| TERRE HAUTE | IN | 1132 | 1400 | 123.67% |
| RAYBROOKE | NY | 500 | 614 | 122.80% |
| FT. WORTH | TX | 660 | 809 | 122.58% |
| LEXINGTON | KY | 1058 | 1290 | 121.93% |
| MILAN | MI | 675 | 792 | 117.33% |
| LEWISBURG | PA | 1142 | 1328 | 116.29% |
| LEAVENWORTH | KS | 1234 | 1356 | 109.89% |
| LOMPOC | CA | 1596 | 1699 | 106.45% |
| PETERSBURG | VA | 632 | 657 | 103.96% |
| SPRINGFIELD | MO | 956 | 991 | 103.66% |
| LORETTO | PA | 50 | 51 | 102.00% |
| SAN DIEGO | CA | 563 | 574 | 101.95% |
| BUTNER | NC | 324 | 329 | 101.54% |
| ENGLEWOOD | CO | 385 | 379 | 98.44% |
| BIG SPRINGS | TX | 482 | 466 | 96.68% |
| MARION | IL | 512 | 488 | 95.31% |
| CHICAGO | IL | 377 | 356 | 94.43% |
| ALDERSON | WV | 617 | 582 | 94.33% |
| MORGANTOWN | WV | 489 | 373 | 76.28% |
| DULUTH | MN | 368 | 181 | 49.18% |

SOURCE: Bureau of Prisons

The Bureau is expanding housing units at ten institutions and expanding capacity at four institutions, but if past practice is any indication this expansion will not even accommodate the increased inmate population much less reduce the current overload.

If the country is to continue its trend of increasing emphasis on punishment (and incarceration) for criminal activity, there must be a parallel commitment of resources to the prison system.

Staffing

While the prison inmate population has been exploding (42% increase since 1981), the staffing (including administrative personnel) in the federal prison system has been virtually stagnant [9,376 in 1979 as to 9,869 in 1985. Source: Appendix to the FY 1980 and FY 1986 Budget]

We are attaching a list of the federal prisons which breaks down the ratio of inmates to correctional staff (Table II). What is dramatic in this analysis is not only the variation between prisons (which is partly a function of the type of prisoner and the design of the prison), but the overall average of 9.34 prisoners to each correctional officer, supervisors included. According to statistics gathered by the American Federation of State, County, and Municipal Workers, the national average in state prisons is 5.8 prisoners for every correctional officer, supervisors excluded.

This is just another indicator of the serious understaffing in the Federal Prison System.

| Institution | Security Level | Unit of 2/5/85 | Total Number of Correctional Staff including Supervisors | Ratio of Correctional Staff to Inmates (1:) |
|---------------|----------------|----------------|--|--|
| TUCSON | Admin. | 324 | 34 | 9.53 |
| ATLANTA | Admin. | 2297 | 261 | 8.80 |
| PLEASANTON | Admin. | 517 | 60 | 8.62 |
| NEW YORK | Admin. | 756 | 100 | 7.56 |
| SAN DIEGO | Admin. | 574 | 79 | 7.27 |
| MIAMI | Admin. | 665 | 100 | 6.65 |
| ALDERSON | Admin. | 582 | 100 | 5.82 |
| MORGANTOWN | Admin. | 373 | 75 | 4.97 |
| ENGLEWOOD | Admin. | 379 | 82 | 4.62 |
| SPRINGFIELD | Admin. | 991 | 222 | 4.46 |
| CHICAGO | Admin. | 356 | 91 | 3.91 |
| BUTNER | Admin. | 329 | 93 | 3.54 |
| | | | | |
| EGLIN | 1 | 722 | 26 | 27.77 |
| MONTGOMERY | 1 | 439 | 18 | 24.39 |
| ALLENWOOD | 1 | 553 | 26 | 21.27 |
| BIG SPRINGS | 1 | 466 | 28 | 16.64 |
| BORAN | 1 | 308 | 20 | 15.40 |
| SAFFORD | 1 | 324 | 22 | 14.73 |
| LEXINGTON | 1 | 1290 | 123 | 10.49 |
| FT. WORTH | 1 | 809 | 84 | 9.63 |
| | | | | |
| DANBURY | 2 | 1086 | 85 | 12.78 |
| SEAGOVILLE | 2 | 592 | 59 | 10.03 |
| TALLAHASSEE | 2 | 796 | 84 | 9.48 |
| LA TUNA | 2 | 769 | 91 | 8.45 |
| SANDSTONE | 2 | 631 | 79 | 7.99 |
| | | | | |
| TEXARKANA | 3 | 885 | 86 | 10.29 |
| ASHLAND | 3 | 756 | 96 | 7.88 |
| MILAN | 3 | 792 | 106 | 7.47 |
| TERMINAL ISLA | 3 | 878 | 126 | 6.97 |
| OTISVILLIE | 3 | 662 | 102 | 6.49 |
| RAYBROOKE | 3 | 614 | 95 | 6.46 |
| | | | | |
| EL RENO | 4 | 1314 | 152 | 8.64 |
| TERRE HAUTE | 4 | 1400 | 173 | 8.09 |
| TALLADEGA | 4 | 682 | 100 | 6.82 |
| BASTROP | 4 | 626 | 103 | 6.08 |
| PETERSBURG | 4 | 657 | 112 | 5.87 |
| MEMPHIS | 4 | 597 | 102 | 5.85 |
| OXFORD | 4 | 622 | 118 | 5.27 |
| | | | | |
| LOMPOC | 5 | 1699 | 176 | 9.65 |
| LEWISBURG | 5 | 1328 | 181 | 7.34 |
| LEAVENWORTH | 5 | 1356 | 204 | 6.65 |
| MARION | 6 | 488 | 220 | 2.22 |

BOP Average 9.34

National Ave. 5.80

Source: Bureau of Prisons
AFSCME

Turnover

The understaffing is aggravated by the high turnover in Prison Bureau staffing. The Bureau of Prisons reports that as of February, there was a 33% turnover among first year personnel. The new correctional officers are leaving so fast that the Bureau's training facilities can not adequately keep up with the demands for new personnel. Even after the first year, turnover is 13% for the remaining staff. Some institutions (for example, in Ottisville and Miami) report turnover rates approaching 50%, and the average tenure of the workers in these institutions is between two and three years. Many institutions are reporting vacancies in the range of 15 to 25%. The most overcrowded institution, UPS Atlanta, reports 102 vacancies or about 25%. Forced overtime seems to be the rule at these institutions. Atlanta is currently working 12 hour shifts, while at Miami when a group of employees raised their concerns on the amount of forced overtime, they were told to resign, if they did not want to work.

Although we do not have complete numbers on hiring and training costs, we have difficulty understanding how such turnover rates could be considered cost effective. Of course, the ultimate cost comes when some inexperienced correctional officer is faced with a life-threatening situation and panics instead of carefully reacting.

| STATE | Starting Salary | Maximum Salary | Number of Grades | Number of Steps |
|-------|-----------------|----------------|------------------|-----------------|
| AK | 22,344 | 34,332 | 3 | 6 |
| CA | 22,105 | 29,181 | 2 | 5 |
| NY | 20,211 | 27,803 | 2 | 4 |
| CO | 20,004 | 26,784 | 1 | 7 |
| MT | 19,293 | 0 | 1 | 5 |
| NJ | 18,750 | 27,910 | 3 | 8 |
| CT | 18,399 | 24,369 | 2 | 7 |
| WA | 17,544 | 24,792 | 2 | 11 |
| OR | 17,412 | 24,180 | 3 | 6 |
| MA | 17,065 | 23,556 | 2 | 6 |
| IA | 16,812 | 21,965 | 2 | 6 |
| AL | 16,559 | 27,056 | 1 | 18 |
| NV | 16,519 | 26,308 | 4 | 15 |
| IL | 16,404 | 22,836 | 2 | 7 |
| PA | 16,337 | 23,954 | 2 | 8 |
| MI | 16,140 | 22,843 | 2 | 9 |
| FED | 16,040 | 25,662 | 3 | 30 |
| RI | 15,974 | 19,640 | 2 | 5 |
| AZ | 15,960 | 25,949 | 2 | 10 |
| KS | 15,850 | 18,699 | 2 | 9 |
| D.C. | 15,672 | 25,072 | 3 | |
| MD | 15,546 | 21,962 | 2 | 7 |
| NM | 15,324 | 27,528 | 2 | 12 |
| WI | 15,138 | 19,560 | 3 | 3 |
| UT | 14,512 | 26,058 | 3 | 12 |
| OK | 14,436 | 21,864 | 2 | 13 |
| WY | 14,425 | 24,486 | 2 | 10 |
| NC | 13,872 | 22,572 | 3 | 9 |
| TX | 13,704 | 22,200 | 3 | 8 |
| ID | 13,676 | 21,214 | 2 | 7 |
| HA | 13,464 | 18,564 | 3 | 6 |
| MO | 13,332 | 20,064 | 3 | 7 |
| NE | 13,068 | 21,143 | 3 | 4 |
| MT | 12,929 | 22,586 | 3 | 13 |
| NH | 12,815 | 18,107 | 2 | 5 |
| VA | 12,644 | 20,646 | 2 | 8 |
| ND | 12,636 | 24,804 | 3 | 9 |
| DE | 12,555 | 23,259 | 2 | 14 |
| OH | 12,480 | 19,032 | 3 | 6 |
| KY | 12,408 | 21,912 | 2 | 3 |
| IN | 12,394 | 19,410 | 2 | 7 |
| SC | 12,161 | 17,924 | 2 | 3 |
| GA | 12,118 | 19,126 | 3 | 7 |
| ME | 12,077 | 15,715 | 2 | 5 |
| MS | 11,751 | 19,431 | 2 | 81 |
| WV | 11,604 | 25,428 | 3 | 12 |
| AR | 11,310 | 24,180 | 3 | 8 |
| SD | 11,211 | 18,138 | 2 | 5 |
| FL | 11,004 | 17,915 | 2 | 3 |
| LA | 10,848 | 19,824 | 3 | 11 |
| TN | 10,608 | 18,168 | 3 | 10 |
| VT | 10,161 | 21,743 | 3 | 2 |

Source: AFSCME

TABLE III

Pay

The starting salary for frontline staff in the BOP is \$7.69 per hour, or \$16,040 annually. The maximum salary is \$25,662.

We are attaching the starting and maximum salaries for correctional staff in all 50 states (Table III). Sixteen states have higher starting salaries and ten have higher maximum salaries. In general, the state correctional officers have more rapid salary advancement because of a fewer number of steps and grades.

If the President's proposed 5% pay cut is approved, we would be behind at least twenty-two states in starting salary and seventeen in maximum salary.

This level of pay is simply too low to retain correctional officers working in the present conditions. As soon as they find jobs (often in state facilities) that pay anywhere near their current salary, they leave.

Temporaries

Since OPM Director Don Devine instructed the agencies to utilize an increasing proportion of temporaries in their workforce, we have seen increased use of temporaries in the BOP. Career employees are becoming increasingly distressed at this development.

There appears to be little or no screening of the temporaries. One assistant warden described the hiring criteria for temporaries as "having 3.5 years of experience with inmates...or children or selling shoes!"

Temporaries have been hired and placed on a post within an institution without even a tour of the institution much less a thorough familiarization of the institution or full training at Gylco.

Downgrading

In early 1984 the BOP arbitrarily and capriciously downgraded WS employees an average of two or three grades. Some of these employees supervise inmates in the prison industries and the remainder supervise inmates in maintenance and food services.

Prior to the downgrading, these employees' grades were based in a reconstructed grade for the inmate workers. Although the inmate workers are not usually journeyman level, the products that are produced must be journeyman level quality. These inmates not only accomplish the routine maintenance of the institution, but have also constructed million dollar buildings and rehab projects. In the factories, they produce items such as furniture, clothing and helmets, most of which is used by the armed forces, also electronic parts for jet aircrafts, submarines and missiles. These items must be of a journeyman level. The factories have strict quality control procedures.

These employees not only have the same problems as other supervisors, but they must also find inmates willing to work, train the inmates, prepare payroll, maintain tool control and accomplish tasks timely while maintaining the security of the institution.

The BOP also chooses to ignore facts that would cause their grades to be returned to the original basis. The actual number of inmates supervised has been arbitrarily decreased, to support the downgrading. Many employees are maintaining copies of the sign in sheet for the "tailgate safety session". These are safety talks the employees are required to give the inmates weekly. Inmates are required to sign that they have received the safety talk. The sheet reflects the actual number of inmates supervised that week. On an average, we expected that the employees are supervising twice the number of inmates the BOP is crediting them with.

The second is that when an employee is out on leave, he can not leave the supervision of his detail to someone else on the detail, as they are all inmates. Rather, another WS employee must supervise both his regular detail and that of the employee on leave. This is routine and predictable, and hence under current rules should be considered to increase their grade. It has not.

OPM is behind in appeal processing on the downgrading and the employees save pay will expire next January (86). It has come to our attention that the BOP "took" the downgrading to force OPM to develop one "yardstick" to classify the WS employees. The Atlanta and Philadelphia OPM regional offices were the proponents of the downgrading.

Since then we have learned that at least two of the OPM offices feel that the WS employees should receive a higher number of grades for correctional duties than the current one grade. They have not awarded the additional grades because all of the OPM regions have to agree on the "yardstick".

Congressman Ford has called for a G.A.O. audit on the matter, but the GAO has not even started because GAO feels it must wait for OPM to finish its appeals prior to conducting the investigation. In January the employees will lose their save pay provisions.

Congressman Sam Hall, prior to his departure from the House, introduced H.R. 443 to maintain these employees' grades pending review.

Contracting Out

It is our understanding that the Bureau has in the past and is currently considering contracting-out secure prison institutions. We believe that going ahead on such a plan would be a disaster. We are attaching two studies [Attachments I and II] on the contracting-out of prisons, which highlight the multitude of problems--legal, ethical, practical, and financial--that contracting-out creates.

Death Penalty

There are currently several bills that would impose a sentence of death for murder committed in a federal penal institution.

Between 1900 and 1972 eight (8) correctional workers were murdered in the line of duty. Since the death penalty was declared unconstitutional in 1972, nine (9) correctional workers have been murdered.

There are a number of inmate gangs that the BOP routinely monitors. These gangs are all disruptive and have an initiation requirement of murder. The last three murders of staff were from these gangs. All of these inmates thumbed their noses at the Justice system during the trial and sentencing. A death penalty would help eliminate these gang murders.

Summary

The implications of these series of problems are grievous for the public, the inmates and the correctional officer. When overcrowding, lack of personnel, poorly trained or inexperienced personnel, and low morale combine to render correctional officers unable to protect themselves, they cannot be expected to adequately protect either the inmates or the surrounding communities.

The conditions within the prison are exacting a devastating toll on my fellow officers. I see increasing evidence of heart disease, circulatory and digestive problems, substance abuse, family problems, and personality disorders.

We recognize that the current budget situation places constraints upon the Congress, but we feel that two actions, neither requiring major expenditures, by this Committee would provide tangible evidence that Congress knows we exist and is concerned about our situation.

Cost of uniform (from approved sources, where they exist and from Sears); number of items based on previous BOP issuing levels:

| Number of items | Item | unit cost | total cost |
|--------------------|----------------------|-----------|------------|
| (2) | Blazer @ | \$62.00 = | \$124.00 |
| (4) | Slacks @ | 21.50 = | 86.00 |
| | Shirts | | |
| (6) | Long sleeve @ | 15.99 = | 95.94 |
| (6) | Short Sleeve @ | 14.99 = | 89.94 |
| (1) | Belt @ | 6.99 = | 6.99 |
| (2) | Tie @ | 3.99 = | 7.98 |
| | Nickel Grays uniform | | |
| (3) | Long sleeve @ | 12.99 = | 38.97 |
| (3) | Short sleeve @ | 10.99 = | 32.97 |
| (3) | Trousers @ | 14.99 = | 44.97 |
| (2) | Oxford shoes @ | 44.99 = | 89.98 |
| (1) | Work boots @ | 44.99 = | 44.99 |
| | Total | | 662.73 |

Items such as raincoats, winter coats, hats, etc. are not included in these figures.

The first is an adjustment of our uniform allowance (see Table IV).

Since the 1960's the uniform allowance has remained at the same level, \$125 per year. The Bureau of Prisons currently has a uniform requirement. If this uniform is purchased from the approved source, it would cost a new employee \$660, not including coats (winter, rain, etc.).

Therefore, the probationary employee must pay \$537 just to get a job. The employee already receiving a uniform allowance can not even maintain the uniform on \$125. Most employees do not have a full uniform. They do not purchase blazers, nickel grays or adequate number of shirts/blouses and slacks.

This results in their having to do laundry several times a week, work on posts feeling either too warm or too cold, etc.

Also, the BOP has uniform appearance as an element on the performance evaluation. For an employee to receive an "exceeds" on their performance evaluation the standard states, "No instance during the rating period when employee was counseled for violation of uniform regulation, plus employee's overall uniform is meticulous in appearance." With the current uniform allowance, this is impossible without going into one's own pocket.

We note that the VA has established a precedent for increasing the uniform allowance by providing a \$400 initial allowance and a yearly allowance of \$175 [Attachment III].

Given the problems we have testified to this may sound like a trivial request, but working in our environment it is often the little things which can stir the greatest resentment and anger.

I can testify that the paltry uniform allowance coupled with stringent uniform requirements ranks very high in our member's legitimate grievances.

Second, the Committee should request that the Appropriation Committee include in its appropriation language an FTE floor of 10,548; 10,548 is the FTE estimate of the Administration.

Establishing this floor would merely ensure that positions would actually be filled. Last year when Congress approved additional positions for the BOP most institutions never saw any change in staffing because so many positions were left unfilled.

In addition, we recommend that:

Recommendations:

- (1) We request that the Committee recommend funding for an independent study of stress among correctional officers. We are attaching the summary of a study conducted by AFSCME for state correctional personnel [Attachment IV]. If the Bureau has a factual basis for analyzing the problem, we think it will allow them to structure training, counseling, and innovative work arrangements to begin to deal with the problem. To ensure the success of the study, the Bureau should be instructed to work with us on the design and implementation of the study. The study should determine the magnitude of stress-related disorders, attempt to determine causal factors and make recommendation for an appropriate stress management program.
- (2) We also request that the Committee consider tying the personnel ceiling to the inmate population to provide for adequate staffing as overcrowding increases.
- (3) There should be an increase in funding for the number of prison institutions to move the prison population toward designed capacity.

- (4) The Bureau of Prisons should be required to stay the downgrading of the WS Supervisors until a thorough review of this action is completed.
- (5) The Committee should request that OPM seek to find an appropriate solution to the low pay and resulting turnover of correctional personnel.
- (6) We hope that the members of this Committee support legislation which allows for the death penalty when an inmate murders a correctional officer.
- (7) The Committee should conduct oversight hearings on contracting-out of prisons. The BOP should be instructed not to contract out secure institution(s) until Congress holds oversight hearings.

The National Association of Criminal Justice Planners

Privatization of Corrections

by Mark A. Cunniff

The entry of private, for profit, contractors into the arena of secure correctional facilities shakes a basic premise about the administration of justice in the United States; i.e. that only government should operate a jail or a prison. Whether the current rattling of private sector involvement in operating secure correctional facilities translates into a viable presence only time will tell. My experience in criminal justice and my reading of American society indicate to me that the private sector will achieve only a minor, if any, role in the delivery of secure detention services. A number of factors, however, do give me cause to pay heed to this development:

- The crisis in corrections
- The involvement of the federal government
- The marketing skills and capitalization of some of the private contractors

The present number of prison and jail beds available to state and local government is insufficient to meet the current and near future demands being placed on them. An atmosphere of crisis must develop before government is willing to entertain radical departures from business as usual. The results obtained from mixing crisis with radical changes in practice has been uneven. The major consideration before us now in corrections is that the ingredients are present; i.e. the crisis of prison and jail crowding along with the radical departure of using private contractors to deliver secure detention services. There is the possibility for the mix to occur and to change the correctional landscape.

The federal government is already feeling the need to mix these ingredients. Crowded jails have resulted in a severe cutback in the number of

beds available from state and local governments to meet federal needs. The federal government, remember, is used to contracting for a share of its detention facility needs. Until recently the federal government contracted solely with state and local governments to meet these needs. Changing times, however; have precipitated new and different responses; i.e. contracting with private firms for the delivery of secure detention facilities. The federal government in the form of the Immigration and Naturalization Service (INS) and the Bureau of Prisons has been the principal purchaser of private secure correctional services in the United States to date.

With the recent revision of the Federal sentencing code from an indeterminate sentencing scheme to a determinate sentencing scheme, there is likely to be a surge in federal demand for facilities that handle short term incarcerations. This can exacerbate an already bad situation into a crisis of major proportions. Such a development could be ominous in establishing a solid role for private corrections because the scope of secure correctional services required by the federal government could prove to be a boom for a fledgling industry, not only financially but also in credibility.

Given a base from which they can market their services, the private sector can develop into a formidable presence, especially given the size of the corporation backing the pioneering efforts. Hospital Corporation of America, RCA, and Control Data are multimillion dollar a year companies that are actively pursuing ventures in the delivery of secure correctional services. These companies can muster the necessary capitalization to get into private corrections in a big way if the situation presents itself. One must also admire their marketing skills, especially in their going after specialized populations; i.e. illegal immigrants, women, and juveniles.

Now I don't wish to sound alarmist or to convey that private corrections will soon arrive on the scene in a big way. These factors -- the jail and

prison crowding crisis, involvement of the federal government and the backers of these initial efforts in private corrections — make private corrections a possibility. However, as a planner in criminal justice, I know that accomplishing even minor changes in criminal justice is a difficult proposition. To achieve a major change such as the privatization of correctional services with any kind of breadth and scope would be a monumental feat. The resistance that this change will encounter will be great and I would now like to explore with you the nature of that resistance.

Let us begin by first making clear what secure correctional facilities represent. Incarceration is the most intrusive act government can take against an individual. In a democracy such as ours, it deprives the individual of his/her most cherished possession — his/her freedom. When incarcerated, the individual is no longer free to make even the most basic of decisions; i.e. when to eat, sleep, wash, etc. Those decisions are made for the individual by the people running the secure detention facility. The inmate is under the total control of the correctional institution and that control is achieved through force. For even though force may be rarely invoked to maintain control in the institution, its presence is always felt. We are dealing in the secure correctional institution with a service that is very different from any other service performed by the government. Incarceration is something we do to a person, it is not something we do for a person. Incarceration is a function that we allow only government to perform and our laws spell out very clearly under what circumstances this sanction may be invoked.

One must wonder, therefore, about the kind of statement a government is making about itself when, after invoking its mechanisms of social control, it turns the convicted offender over to a profit making firm to administer its punishment. Does a government that does not trust itself to administer one of

its most basic functions deserve its citizens' trust and support?

There is also the matter of the values that a government professes to hold. Does a government really want to undertake a public policy that makes the administering of punishment a money making proposition? Does the government want to emphasize such a mercenary value as profit in its response to a social problem as opposed to values as fairness, equity and personal accountability? Is our society simply a market place where monetary considerations drive its decisions or are there other values that are more deserving of our attention?

These questions raise the issue of propriety; i.e. the appropriateness of the response to the circumstance being addressed. Propriety is a legitimate concern to be raised in an examination of the role of the private sector in corrections and I believe it is the very first one that should be discussed.

Correctional responses to criminal offenders do reflect on society's values. Because our society is complex, there are many different values competing with one another in an endeavor such as corrections. Efficiency and effectiveness, despite what the private contractor may assert, is a value present in corrections and in criminal justice. However, it is only one value. It is a value that competes with other values and usually it is a value that is secondary to other considerations.

There are minimal standards that have to be met when the government incarcerates an individual so as to maintain a measure of human dignity. The day of the dungeons have passed. There is also competition among the different goals of corrections as to the most appropriate interventionist strategy for dealing with the convicted offender. Is corrections to punish, deter, incapacitate, reform, or train the convicted offender? Consensus is difficult to reach on this question nationally, locally, and even institutionally.

The motivation behind the debates and discussions on the purposes of corrections flows from a desire to advance the general welfare of the Society. Costs are a concern in making decisions on these matters. Costs, however, are not the primary consideration. Only government would entertain operating a correctional program, such as resitution, where the resources necessary to operate the program would exceed the amount of money the offender is likely to generate because the goal is not financial return but rather such concepts of personal accountability. This way of thinking would have a hard time being accepted by the private sector.

The major danger of bringing the private sector in secure correctional facilities is that it runs the risk of bringing cost considerations into the forefront of the decisionmaking process to the detriment of the other values held by the society. The private sector is more concerned with doing well (making a profit) rather than doing good (advancing the general welfare). The private sector brings with it a new entity into the decision making process -- its board of directors. The only concern of a private board of directors relates to whether or not the company is making a profit. The advancement of social welfare is a secondary or tertiary concern and that turps the purpose of corrections upside down.

An assumption that the private contractor makes in approaching corrections is that there is consensus on what corrections ought to be doing and that the service can be defined as any other marketable commodity. The private contractor also believes that with the service being defined, the contractor will be pretty much left to his/her own devices in providing that product. These assumptions stem from an operational definition that does not hold in criminal justice; i.e. that there is only one decisionmaker. There is not one decisionmaker in criminal justice/corrections. Rather there are many. Power resides in many different quarters, e.g. the legislature and the County

Commissioner or the Governor. Our governmental structure is not a model for efficiency. Indeed it was intentionally designed so as to separate powers and thus it is designed to be inefficient. When the private contractor states that s/he can go out to plan, build, and operate a facility more quickly than government, that contractor is assuming that government is willing to give to him/her powers that it is not presently willing to give to its own agencies. If government is not willing to give a Sheriff or a Commissioner of Corrections the authority to do whatever they deem necessary to meet the problems they encounter in doing their job, I seriously doubt that government would provide such powers to a private contractor. The powers that be in government demand to be consulted and to have their consent given to whatever responses correctional officials propose to deal with their workload.

In closing I want to make the observation that private contractors raise legitimate issues and concerns about corrections. Among the issues they raise are:

- Management in corrections could be improved
- Incarceration costs are high
- Correctional capacities are strained

The legitimacy of the issues, however, tends to confuse the concern about the appropriateness of private contractors in delivering secure detention services. The private contractors try to weave the legitimacy of the concerns being raised into a fabric that provides legitimacy to their approach. Private contractors also view their answers to the legitimate questions that they raise as the only correct response. I believe the real issue here is getting government to address the problems in a way that reflects the full range of society's values and not just on the basis of efficiency.

SOME THOUGHTS ON PRISONS FOR PROFIT

J. Michael Keating, Jr.

Prison industry had its origin in the mid-Sixteenth Century when the manufacture of a variety of products, including, believe it or not, tennis balls, was introduced in the first English "house of correction" at Bridewell. In 1787, Benjamin Rush, that extraordinary Founding Father who was part physician, part philosopher and part statesman, advocated such novel notions as individualized sentencing and the classification of prisoners. At just about the same time, John Howard, the English prototype of modern prison reformers, resigned in disgust as Supervisor of Buildings because he was unable to cajole or compel local communities to provide sites for construction of the new "penitentiary houses" authorized by Parliament. In the 1840s, Alexander Maconochie anticipated B.F. Skinner by a century, introducing a fully developed behavioral modification regimen, replete with positive reinforcement, for prisoners on Norfolk Island in Australia. What all of these examples illustrate is that very little is genuinely new under the correctional sun.

Thus, when Corrections Corporation of America, a profit-making, privately owned corporate entity, proclaims a radically new approach to corrections founded on the ability of private enterprise to build and operate secure adult correctional facilities more effectively and cheaply than government, we ought to greet the announcement with some pause. Never mind massive public disillusionment with the existing correctional system or

the Reagan Administration's enraptured surrender to private enterprise in all of its forms, which together ensure virtually universal acclaim for the concept of privately run prisons. The question is: Is the privatization of corrections either a new idea or a good one?

I would argue that, at least for the present, privatization is a bad idea for three reasons. First, the record of historical and contemporary corrections suggests that the successful operation of a secure adult correctional facility requires skills, abilities and resources we are only beginning to understand and accumulate. A jail or a prison is not a fast food franchise, and the application of modern business methods and technology offers no better promise of creating humane and effective prisons than any of the other nostrums pushed by earlier generations of prison reformers. Moreover, the mixture of private enterprise and corrections in the past has produced little discernible progress and monumental abuse.

Secondly, careful examination of cost-effectiveness claims for privatization, which are overwhelmingly the principal justification touted by its advocates, shows them to be, at best, suspect, and, in any event, the rigid application of cost-effectiveness measures in corrections has resulted historically in disaster and tragedy.

Finally, the private operation of jails and prisons raises serious legal, ethical and policy issues, and it is clear that a great deal of thoughtful study and analysis is needed

before local jurisdictions embrace privatization as a means of escape from their pressing, clamorous correctional problems.

It is important to be clear what we are talking about here. We are not addressing the now widely current practice of contracting for specific services in corrections, such as medical care or food services, nor are we considering the operation of community-based group homes or treatment-oriented facilities for youth. Neither are we discussing the narrowly financial and architectural services of those entrepreneurs who stress their ability to design, finance and construct quickly correctional facilities in utter disregard of local, grassroots financial opposition. What we are talking about here is the private operation, whether by profit-making or non-profit entities, of maximum, medium and minimum security jails and prisons for large numbers of adult, primarily male inmates. Such operations entail necessarily the handing over to private individuals of responsibility for the detention of offenders accused or convicted of serious crimes by the state.

The eminent sociologists Gresham Sykes¹, in the 1950s, and Erving Goffman², in the 1960s, alerted us first to the uniquely challenging aspects of "total institutions" like prisons whose "captive" populations are coercively isolated from the general community. No one who reads their work can ever again entertain the notion that total institutions differ little from other institutions in our society.

More recently, the widely reported and much criticized

experiment of Stanford social psychologist Philip Zimbardo, in which he simulated a prison environment peopled with role playing prisoners and guards, confirmed emphatically that the relationship between the keepers and the kept in a secure facility is frequently corrosive and cruel.³ That finding accords well with the now classic and vitriolic letters emanating from Jack Henry Abbott's sojourn in the belly of the beast.⁴

If you reject these descriptions as, perhaps, lurid and prefer a more conservative critique, then read the descriptions of life and conditions in prisons in Arkansas, Colorado or Rhode Island provided in the judicial opinions in, respectively, Holt v. Sarver⁵, Ramos v. Lamm⁶ and Palmigiano v. Garrahy⁷; or the dry but poignant prose of the McKay Commission's report on Attica⁸; or James Jacobs' description of life at Stateville in the aftermath of reform.⁹

Everywhere the message is the same: Prisons are unique and menacing institutions. And worst of all, we do not know the reasons why this is so. We cannot say with any measure of accuracy why offenders commit crime; we know virtually nothing about why some recidivate, while others find redemption. And our ignorance about what happens when these perplexing individuals cohere in the artificial social environment of the prison is simply staggering. But do not take the word of academicians about the uniqueness of the prison world. Talk to the people who really know, the correctional officers who, year after year, submit themselves to the uncertainty, the fear, the distrust,

the danger of prison work; who know that the moment they begin to perceive their working environment as routine, normal or mundane, they are most exposed to danger.

All of this goes far to explain why jails and prisons in 42 jurisdictions in 26 states have been condemned by state and federal courts for inflicting cruel and unusual punishment in contravention of the Eighth Amendment to the Constitution. Cited deficiencies range from medical care in a single facility to total conditions throughout a state-wide system. These findings occur, moreover, in the wake of two decades of an unprecedented explosion in the expenditure of public funds on correctional institutions and programs. The same period has also seen the widespread introduction of an enormous variety of technical administrative innovations, including management by objectives, program budgeting, management information systems, zero-base budgeting, etc., all promoted as sure-fire methods for improving the management of corrections. Yet, one is hard-pressed to find any state-wide system, or even a single institution, to point to as a model for the well-run prison or jail. "Successful" institutions depend invariably on charismatic leaders whose inspiration has proven in every case to be non-transferable and ephemeral. The fact is we do not know how to create and maintain efficient, fair and humane correctional institutions.

The past involvement of private enterprise in corrections holds out little hope that privatization now can offer much

to change this depressing situation. For much of the Nineteenth Century while correctional facilities, especially in England, were nominally in the hands of government, they were actually under the control of keepers or petty tradesmen, who were in effect private contractors rather than salaried employees. Although they were required to submit accounts to supervising courts, only mass escapes or gross corruption threatened their tenure. Having once obtained their appointments or "contracts" through judicial patronage, these early correctional entrepreneurs were able to settle down to a lifetime of profitable extortion. Everything in the facility was for sale; even release required the payment of a fee to your friendly keeper.

The abuses of the greedy and grasping keepers fueled a revulsion against this primitive privatization, and the public soon demanded that the state assume directly and solely the business of running prisons and jails.

In the United States in the aftermath of the Civil War, a more pernicious system evolved, particularly in the South, where prison labor came to be looked upon as a substitute for the now abolished slavery. Private contractors assumed total responsibility for prisoners and, in most cases, reimbursed the state a fixed amount per head. Instead of being a burden on the state treasury, prisoners were thereby transformed into a source of revenue. Whatever the intentions of the original proponents of contracting, abuses in the system were soon apparent everywhere. In 1885 thirteen states turned their inmates over to private

agricultural contractors; by 1923 no state allowed this practice.^{11.}

Past or present, private or public, the establishment of a fair and efficient system of corrections has proven elusive.

But here comes Corrections Corporation of America claiming it can run prisons both more economically and humanely. Should we credit such claims? Yes and no. It is conceded that modest savings may be realized through the private provision of some services, such as medical care and food services; theoretically, if a private corporation were to grow large enough to operate many facilities, there might be additional economies of scale. But the real question is whether the private sector can run the security aspects of a prison more efficiently and cheaply.

Once the cost of building an institution is paid, the business of corrections becomes a highly labor-intensive pursuit. The vast bulk of the \$5,000 to \$30,000 it requires annually to incarcerate a single prisoner in various locales across the United States goes towards the extraordinary personnel demands of maintaining 24-hour supervision, seven days a week. Different correctional systems over the past decade have tapped every available source of correctional expertise, as well as the management skills of prestigious accounting firms and consulting sources like the Wharton School of Business to streamline manning rosters, limit posts and contain overtime, all for naught. The fundamental business of corrections is supervision, and technical gadgetry and computerized scheduling have done little to

lower the cost of that supervision. Many of the recent architectural innovations in prison design, with their emphasis on modular structures and insular control booths, have increased, rather than reduced, the need for personnel and, in addition, have made the task of oversight so sterile and lonely, the turnover rate among correctional officers seems to be on the rise rather than waning.

All of this means that the only way left to reduce correctional operating costs measurably is to be less selective in hiring, to reduce the salaries and benefits of line correctional staff and to cut back on the training provided both initially to staff and during their tenure on the job. And this, despite all the disclaimers, is the heart and soul of private enterprise's prescription for the betterment of corrections. All one has to do is listen to the complaints of veteran public correctional administrators, those same individuals who now run these private correctional entities, and note the repetitious lament about how restrictive collective bargaining agreements and civil service regulations keep getting in the way of genuine efficiency. For these managers, it is seniority and sick leave; in-service training and low staff-to-prisoner ratios; minimum staffing levels and overtime that make corrections inefficient. For them, the reduction or elimination of these barriers to progress is the key to effective cost containment. It is one of those delicious ironies of human nature that while these newly privatized moguls are

zeroing in on the reduction of pay and benefits accorded correctional line staff, their own salaries and perquisites in the brave new world of private corrections tend to exceed substantially their former public earnings.

The danger of this approach to efficiency, which focuses narrowly on personnel costs, is obvious. Texas was long considered one of the most cost-effective correctional systems in the country, with per capita annual expenditures on prisoners that were the envy of the profession. Then came Ruiz v. Estelle,¹² a 1980 court case in which conditions of confinement in Texas were found to be degrading, brutalizing and unconstitutional. Efficiency in Texas was achieved at the price of surrendering the system to inmate control and reducing paid staff to the bone. Preoccupation with cost-effectiveness, it turns out, can lead in corrections to brutality and inhumanity.

So, too, the historical practice of leasing prisoners out to private contractors was encrmously cost-efficient. States using the system actually reaped profits, and termination of the practice meant not only increased public costs but the loss of substantial revenue. The system was not abandoned because it was inefficient, but because it was inhumane. As one warden observed in 1898, "After long experience I am thoroughly convinced that no sort of supervision can be inaugurated that will absolutely prevent abuses under the contract system."¹³

And that, for privatization, is the dilemma of corrections. Efficiency is desirable; the public certainly is entitled to

genuine efforts to contain the costs of incarceration. But given the nature of corrections, which involves the continuing deprivation of the basic liberty of a difficult and truculent population, efficiency must yield to the requirements imposed by law and morality on the keepers to treat the kept with decency and humanity.

Finally, there is a potpourri of legal, ethical and policy issues that must be sorted out and responded to before privatization may be permitted to proceed. Time allows only a brief catalogue of such issues and some of the questions they generate, but each deserves extensive research and analysis:

1. Corrections is an essential aspect of the police powers of a state, county or municipality. As such, it is an inherently governmental, rather than proprietary, function of the state. No governmental entity can ever fully delegate its correctional responsibilities since it is prohibited from alienating entirely the exercise of its police powers. Thus, the contractual relationship between, say, a city and the private operator of its jail is unlike that between two private parties, because the city always retains the inherent power to adjust the terms of the contract to meet new circumstances. The word, then, to private correctional entrepreneurs is caveat emptor.

2. Not surprisingly, private entities interested in building, as well as operating, jails or prisons need long-term contracts. One of the dangers of this need is the ability of successor elected officials to abrogate contracts undertaken by

their predecessors. This means that private contractors must woo and win succeeding generations of officials, with all of the potential for corruption, graft and favoritism such a need inevitably involves.

3. Private jail and prison operators would appear to be subject to all of the statutes fashioned to render state agencies liable for their misconduct, such as Section 1983 of the Civil Rights Act, but ineligible for the benefits derived from those statutes and common law doctrines that preclude or limit the liability of public bodies, such as state tort liability statutes and the doctrine of sovereign immunity. That being the case, indemnification of private corporations and their employees may turn out to be incredibly expensive.

4. While managers are quick to bemoan the costs of public employment unionization, they rarely consider the benefits of the arrangement. What, for example, will be the status of employees of private operators of correctional institutions? They must surely be private, not public, employees. That, after all, is one of the basic points of the privatization movement. But that means they cannot be prevented legally from organizing and bargaining with management. Equally certainly, as private employees they may not be prevented from conducting strikes and other work stoppages. Will the state then be called on to run these private institutions during such stoppages? At whose expense? Are we really ready to dismantle the structure of public employment relations in corrections constructed so laboriously

over the past three decades?

5. Then there is the question of what happens when one of these private correctional corporations goes broke, or even more complex, begins to go broke. Does the contracting state agency ease some of its contractual standards and requirements in the face of the private provider's fiscal difficulties? May the contracting governmental entity limit the contractor's administrative costs, i.e., step in to reduce the perks and salaries of management, to stem financial losses? Who picks up the bills in the event of a bankruptcy? And what happens to the city or county relying solely on a private provider of correctional services that goes broke?

6. The complexities involved in the development of a tight and thorough contract for regulating the relationship between a privately run correctional facility and a governmental entity are simply staggering. A contract for the operation of a large jail or maximum security prison can be no less inclusive than, for example, applicable American Correctional Association standards, only the contract must contain a multitude of additional provisions to cover the myriad contingencies that inevitably need to be addressed in such a document. Given the limited legal resources available to most local and state governments, the incidence of inadequate and faulty contracts leaving governmental bodies in the contractual lurch is likely to be high.

7. Which leads naturally to the issue of contract monitoring. Under the Ruiz decision in Texas, a special master with a staff of attorneys and investigators and an annual budget in

excess of half a million dollars is required to monitor compliance with a judicial decree seeking merely to eradicate cruel and unusual punishment. Little or no thought has gone into the far more difficult task of monitoring the entire operation of a private prison. Methods adequate for imposing quality control on food suppliers will not suffice to monitor the operations of a privately run prison. The cost of doing so, moreover, is never included by advocates for privatization in their calculations of the cost of private services.

8. The monitoring difficulty marks the transition from purely legal to broader ethical and policy issues. The shocking disclosures of the sexual abuse of children in private day care centers and the history of patient abuse in nursing homes underline the difficulty of holding private providers accountable for their actions. Given the coercive nature of prisons and their relative inaccessibility to the general public, do we know enough about the mechanics of accountability to entrust to private individuals responsibility for running our prisons? Have we made any real efforts to develop better methods and procedures for ensuring accountability?

9. With the waning of the rehabilitative ideal in our approaches to sentencing and corrections, the main burden of the correctional system has been increasingly to incapacitate and punish offenders. The myth, nurtured over the years, that our institutions are designed to rehabilitate offenders has yielded, for the most part, to reality, and our penal institutions today are committed to imposing "just deserts" on culpable offenders

no longer viewed as deviant victims of an uncaring society. The punishment, the pain inflicted on prisoners is real. As Michel Foucault, the French social philosopher, observed in his seminal analysis of modern correctional theory, imprisonment strikes at the most cherished notion in our philosophical and political heritage, the concept of individual liberty and freedom. Are we as a society, as a polity, prepared to turn over to the private sector the uniquely governmental function of imposing punishment on our fellow citizens? Are we really so deeply in the thrall of private enterprise that we are prepared to parcel out opportunities to some of our citizens to reap a profit from the punishment of others?

I think not. I hope not.

Providence, Rhode Island
February 19, 1985

DEMOCRATS

G. V. (SONNY) MONTGOMERY MISS
 DON EDWARDS CALIF.
 BOB EDGAR PA.
 SAM B. HALL, JR. TEX.
 DOUGLAS APPELEGATE OHIO
 MARVIN LEATH TEX.
 RICHARD C. SHELBY ALA.
 DAN MICA FLA.
 THOMAS D. DASCHLE S. DAK.
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MACE FLEMING

CHIEF COUNSEL AND STAFF DIRECTOR

NINETY-EIGHTH CONGRESS

G. V. (SONNY) MONTGOMERY
 CHAIRMAN

U.S. House of Representatives

COMMITTEE ON VETERANS' AFFAIRS

335 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

ATTACHMENT III

REPUBLICANS

JOHN PAUL HAMMERSCHMIDT ARK.
 CHAMBERS P. WYLLIE OHIO
 ELWOOD HULLS IND.
 GERALD B. H. SOLOMON N.Y.
 BOB McEWEN OHIO
 CHRISTOPHER H. SMITH N.J.
 DENNY SMITH OHIO
 PHIL GRAMM TEX.
 DEAN BURTON IND.
 DON SUNDOUST TENN.
 MICHAEL ELRASS ILL.
 NANCY LEE JOHNSON CONN.

VETERANS' HEALTH CARE AND FACILITIES IMPROVEMENT
 ACT OF 1984

H.R. 5618

TITLE: To amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes.

Mr. MONTGOMERY (for himself, **Mr. HAMMERSCHMIDT**, **Mr. EDGAR**, **Mr. WYLLIE**, **Mr. EDWARDS** of California, **Mr. SAM B. HALL, JR.**, **Mr. HULLS**, **Mr. APPELEGATE**, **Mr. SOLOMON**, **Mr. LEATH** of Texas, **Mr. McEWEN**, **Mr. SHELBY**, **Mr. SMITH** of New Jersey, **Mr. MICA**, **Mr. DENNY SMITH**, **Mr. DASCHLE**, **Mr. GRAMM**, **Mr. DOWDY** of Mississippi, **Mr. SUNQUIST**, **Mr. EVANS** of Illinois, **Mr. BILIRAKIS**, **Ms. KAPTUR**, **Mrs. JOHNSON**, **Mr. HARRISON**, **Mr. MOLLOHAN**, **Mr. PENNY**, **Mr. STAGGERS**, **Mr. ROWLAND**, **Mr. SLATTERY**, **Mr. BRYANT**, **Mr. FLORIO**, **Mr. CORRADA**, **Mr. HEFNER**, **Mr. BONER** of Tennessee, **Mr. OBERSTAR**, **Mr. BONIOR** of Michigan, and **Mr. SIMON**) introduced the following bill on May 8, 1984; which was referred to the Committee on Veterans' Affairs.

SUMMARY: (1) Authorizes the Administrator of Veterans' Affairs to provide comprehensive treatment services, including hospital care, medical services, outpatient services, counseling to family members and other persons in primary social relationships with a veteran, rehabilitative services, vocational counseling, home health services, to veterans suffering from post-traumatic stress disorder attributable to service in the Armed Services. Such services may be provided only through treatment units, so-called "combat units", established for the treatment of post-traumatic stress disorder in VA medical facilities. The Administrator may not furnish such services after September 30, 1988.

(2) Requires the Administrator to identify the resources allocated to such treatment units in material submitted with the President's budget for each fiscal year during which the units are in operation.

(3) Requires the Administrator to compile and publish information that would be of use to health care professionals involved in the treatment of post-traumatic stress disorder.

(4) Expands the authority of the Administrator of Veterans' Affairs to adjust the salaries of certain personnel, in order to recruit and retain their services, to include VA police officers.

(5) Permits the Administrator to reimburse police officers for uniform expenses in an amount not to exceed \$175 in any calendar year, or in an amount up to \$400 on a one-time only basis.

(6) Directs that the Administrator shall appoint a chief inspector to supervise Veterans' Administration police officers and select a uniform for VA police officers.

(7) Requires the Administrator to submit a report to the Committees on Veterans' Affairs of the House and Senate on the implementation of regulations to recruit and retain qualified police officers 90 days after date of enactment.

(8) Clarifies the due date of the Comptroller General's opinion as to whether or not the Office of Management and Budget has provided the Veterans' Administration with the funded personnel ceiling by allowing the Comptroller General 15 days to review the Office of Management and Budget certification. The Office of Management and Budget certification is due on the 10th day of the fiscal year.

(9) Requires an annual, rather than every 3 years, report from the Administrator of Veterans' Affairs on the adequacy of per diem rates payable to States providing domiciliary, nursing home, and hospital care to veterans.

(10) Extends for one fiscal year, or until September 30, 1985, the Administrator's authority to waive restrictions placed on the provision of hospital care and medical services to eligible veterans who are residents of the Commonwealth of Puerto Rico and the Virgin Islands. The loss of this authority would place an undue hardship on the VA to provide medical services in Puerto Rico and the Virgin Islands by limiting the service to the annually determined incidence of such care in the 48 contiguous States. The VA Medical Center in Puerto Rico cannot meet the demand for care in the area.

(11) Extends the Geriatric Research, Education and Clinical Centers (GRECCS) program through fiscal year 1985 and subsequent fiscal years.

(12) Authorizes the use of grants to States for acquiring existing facilities to be used to provide domiciliary, nursing home, or hospital care to eligible veterans.

Effective date: October 1, 1984.

COST: The Congressional Budget Office estimates the cost of H.R. 5618 to be \$32.5 million in outlays for fiscal year 1985; \$25.1 million in outlays for fiscal year 1986, and \$23 million in outlays for fiscal year 1987.

LEGISLATIVE HISTORY: CONGRESSIONAL RECORD, Vol. 130 (1984).

May 10: Reported by Committee on Veterans' Affairs by unanimous voice vote.

May 15: House Report 98-779.

May 21: Passed House by voice vote under suspension of the rules.

May 31, 1984.

PRISONERS OF LIFE

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A study commissioned by the American Federation of State, County and
Municipal Employees

PRISONERS OF LIFE

By

Frances E. Cheek, Ph.D.
Project Director

and

Marie Di Stefano Miller, M.A.
Project AssociateREVIEW OF PREVIOUS STUDIES

Stress and danger in our nation's correctional facilities are becoming matters of nationwide concern, and several factors suggest that conditions may get worse in the immediate future. Inflation and budget cutting inevitably lead to cutbacks in programs for inmates, and the increase in free time fuels boredom, frustration and tension. Meanwhile, community attitudes have become more and more negative towards crime and those in custody, and as correctional facilities move towards more coercive control, tensions inside the walls increase. All of this is aggravated by gross and increasing overcrowding of jails and prisons stemming from apparently increased crime rates and the ineffectiveness of our criminal justice system, plus the incarceration of the mentally ill, who are often undiagnosed and untreated.

The consequences must be measured by more than the rising number of hostile incidents or of violent eruptions that destroy both lives and property. For the inmates, stress leads to injuries, lawsuits

*Dr. Cheek is a research scientist for the New Jersey Department of Corrections, and Director of Stress Management and Self-Control Training Programs.

*Mrs. Miller, an associate of Dr. Cheek's for the past five years, holds a position in the Division of Policy and Planning in the state of New Jersey.

SYNOPSIS

Previous studies by the present authors, primarily of New Jersey correction officers, have suggested that correction officers are subject to severe occupational stress reactions. These are evidenced in high rates of physical illnesses; burnout (as measured by a special scale); self-perceptions of co-worker problems in the areas of physical health, family and neighbor relations, finances, alcohol and drug abuse.

Examination of perceived sources of stress has also suggested that administrative problems are most critical. In particular, the lack of clear guidelines for job performance, lack of administrative support, and lack of autonomy has been cited most frequently.

This study has attempted to broaden the data base for these observations by replication of earlier studies of New Jersey correction officers with their counterparts from Pennsylvania, Illinois, and Washington.

Questionnaires returned by 818 correction officers in these three states appear to confirm the previous findings. Indeed, the average burn-out score for the national sample was much higher than the average for the previous study in New Jersey. Also, the percentage of officers who reported experiencing individual illnesses was notably higher in the national sample than in the New Jersey sample. Pennsylvania came out unequivocally as the state with the highest average burn-out rate and illness scores.

On several other stress measures, the national sample was higher than New Jersey, and Pennsylvania scores were the highest of the three states studied. For example, self-perceptions of levels of tension were higher for the national sample as were officer ratings of the effect of stress on physical health, emotional health, family relations and job performance. Again, Pennsylvania's scores were the highest on all these self-perceptions.

National sample figures tend to be somewhat higher than the New Jersey figures for perceptions of problems of fellow officers with alcohol, marriage, children, health, finance, drugs, and neighbors. For perceived suicides and heart attacks in fellow workers, the national sample figures again tend to be higher than the New Jersey sample; and of the three states, Pennsylvania was highest on most items. For the sample as a whole, financial problems were most likely to be perceived in fellow officers.

In the earlier New Jersey study and in the national sample, administrative sources of stress were seen as most important. Respondents in the national sample also placed emphasis on overcrowding, problems with inmates, rights, and lack of legislative understanding and support.

In addition, a major source of stress was inadequate pay. This supports the perception of many correction officers that they are undercompensated for the danger posed by their jobs each day. Correction officers view their jobs as no less essential to public safety than police officers who generally are much better paid.

For the sample, as a whole, the major complaint was that the rules were not enforced uniformly. Poor communication of rules and changing rules were also high on the list of complaints. Asked about their personal needs on the job such as role clarity and supervisor support, the officers responded that the greatest need was support from supervisors. This echoes the finding that one of the major sources of stress was lack of administrative support.

It would be anticipated that absenteeism would be related to burn-out. However, except for Pennsylvania, the findings supported this hypothesis only in relation to sick leave. Looking more closely at Pennsylvania (and remembering that it had the highest burn-out rate) sick leave, disability, time off without pay and days suspended, all were correlated with burn-out.

Not surprisingly, respondents with the highest reported burn-out had the lowest job satisfaction level. As to other job factors, lack of administrative support showed the strongest relationship with burn-out, then lack of rule clarity. The fact that these correlations with administrative concerns were markedly higher in Pennsylvania suggest that correctional administrative practices in that state might profit from review.

Again, it would be anticipated that self-perceptions of tension and the negative consequences of stress would correlate highly with burn-out. The study confirmed this. For the sample as a whole, self-perceptions of tension, perceived negative effects on job performance, family health, emotional health, and physical health all showed high correlations with burn-out.

With regard to correlations of perceived sources of stress with burn-out, for each state and for the sample as a whole, "can't see positive results" was most highly correlated. Next came the stigma of being a correction officer, lack of administrative support, low staff morale, and lack of recognition as a professional. These suggest self-image problems for the correction officer.

For perceived consequences of stress, the study showed mental illness, poor job performance, and alcoholism most highly correlated with burn-out.

NAME OF BOP INSTITUTION
AMOUNT ALLOCATED
FY 1985

NAME OF LEGAL ASSISTANCE PROGRAM
STAFF CONTACT, PHONE NUMBER

NORTHEAST REGION

Petersburg
\$4,200

Post Conviction Assistance Program
Marshall-Wythe School of Law
College of William and Mary
Williamsburg, Virginia 23185

Betty G. Brooks
Administrative Director
(804) 253-4290

Alderson
\$8,000

Alderson Legal Assistance Program
School of Law
Washington and Lee University
Lexington, Virginia 24450

Wilford J. Ritz
Director
(703) 463-9111 Ext. 347 or 217

Danbury
\$6,000

Jerome N. Frank Legal
Services Organization
Yale Law School
New Haven, Connecticut 06520

John L. Pottenger, Jr.
Professor (Adjunct) of Law
(203) 436-2210

NORTH CENTRAL REGION

Milan
\$9,000

Nick Ianni
Attorney at Law
4031 Shanna Drive
Brighton, Michigan
(313) 227-5307 Hm.
(313) 229-7674 Of.

Terre Haute
\$7,000

Indiana University School of Law
Inmate Legal Assistance Clinic
Law Building
Room 302
Bloomington, Indiana 47405

Betsy Greene
Supervising Attorney
(812) 335-4800

Oxford
 \$30,000
 University of Wisconsin
 Department of Law
 905 University Avenue
 Suite 309
 Madison, Wisconsin 53706

David E. Schultz
 Associate Professor and Chairman
 (608) 262-3833

Sandstone
 \$7,000
 Legal Assistance to Minnesota
 Prisoners (LAMP)
 Law School
 University of Minnesota
 Minneapolis, Minnesota 55455

James R. Peterson
 Director
 (612) 373-5044

Leavenworth
 \$6,000
 The Kansas Defenders Project
 The University of Kansas School of Law
 Green Hall
 Lawrence, Kansas 66045

David J. Gottlieb
 Director
 (913) 864-5571

SOUTH CENTRAL REGIONAL

El Reno
 \$5,200
 The University of Oklahoma
 El Reno Legal Services Project
 Law Center
 300 Timberdell
 Norman, Oklahoma 73019

Theodore P. Roberts
 Director
 (405) 325-3702

SOUTHEAST REGION

Lexington
 \$15,000
 University of Kentucky
 College of Law
 201 Short Street
 Suite 310
 Lexington, Kentucky 40507

George E. Henry, II
 Professor of Law
 (606) 253-1328

WESTERN REGION

Terminal Island

\$7,000

The Law Center
University of Southern California
University Park
Los Angeles, California 90080-0071

Dennis E. Curtis
Professor of Law
(213) 743-2408



U.S. Department of Justice
Immigration and Naturalization Service
Office of Congressional and Public Affairs

425 Eye Street N.W.
Washington, D.C. 20536

CO 703-C
CO 732-C

Ms. Sharon House
CRS - Education and Public
Welfare Division
Library of Congress *Room LM 320*
Washington, D.C. 20540

Dear Ms. House:

The following information is provided in response to Mr. Gude's request of May 21, 1984. Not all of the requested information is readily available, but we have attempted to answer each question as completely as possible.

1. Where are the INS detention facilities located and how many people are being held in each facility? Please include a breakdown by nationality from 1980 to the present. What is the capacity of each detention facility? Please indicate, facility by facility, how many people are in exclusion proceedings and how many are in deportation proceedings and include a breakdown by nationality.

The following chart indicates the name, location, rated capacity and May 31, 1984 population of each of the six INS Service Processing Centers.

| <u>Service Processing Center</u> | <u>Location</u> | <u>Capacity</u> | <u>Population 5-31-84</u> | |
|----------------------------------|-----------------|-----------------|---------------------------|-------------|
| | | | <u>Mexican</u> | <u>OTM*</u> |
| Varick St. | New York, NY | 250 | 2 | 191 |
| Krome North | Miami, FL | 451 | - | 501 |
| Port Isabel | Los Fresnos, TX | 477 | 96 | 475 |
| El Paso | El Paso, TX | 342 | 182 | 152 |
| El Centro | El Centro, CA | 344 | 85 | 281 |
| Florence | Florence, AZ | 160 | 12 | 76 |

* Other Than Mexican

INS did not begin trapping detention statistics by nationality until May 1982. Following is a chart indicating by nationality those aliens admitted to Service Processing Centers and staging areas.

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> |
|--------------------|------------------|------------------|------------------|
| | <u>MAY - SEP</u> | <u>OCT - SEP</u> | <u>OCT - JAN</u> |
| Afghanistan | 37 | 72 | 33 |
| Belize | 59 | 111 | 63 |
| Colombia | 666 | 1,560 | 540 |
| Cuba | 61 | 409 | 154 |
| Dominican Republic | 181 | 405 | 151 |
| Ecuador | 193 | 347 | 137 |
| El Salvador | 2,449 | 8,353 | 3,093 |

Service

| | | | |
|-----------|---------------|----------------|---------------|
| Ghana | 24 | 53 | 26 |
| Greece | 17 | 48 | 22 |
| Guatemala | 609 | 2,308 | 1,032 |
| Haiti | 271 | 535 | 365 |
| Honduras | 307 | 1,015 | 333 |
| Hong Kong | 34 | 55 | 11 |
| India | 285 | 516 | 196 |
| Iran | 57 | 292 | 45 |
| Iraq | 9 | 19 | 9 |
| Jamaica | 138 | 370 | 130 |
| Mexico | 40,300 | 128,088 | 25,638 |
| Nicaragua | 166 | 411 | 480 |
| Nigeria | 102 | 268 | 72 |
| Pakistan | 110 | 197 | 24 |
| Peru | 137 | 252 | 84 |
| Taiwan | 24 | 36 | 14 |
| Others | <u>1,426</u> | <u>3,133</u> | <u>868</u> |
| Total | <u>47,662</u> | <u>148,853</u> | <u>33,520</u> |

The information requested on exclusion and deportation cases by nationality and by facility is available only at those locations which have access to the Deportable Alien Control System.

2. How many people are being held in detention in non-INS facilities? Please provide statistics on the number of individuals held in each non-INS detention facility since 1980 with a breakdown by nationality. Please also provide the names of contractors for all non-INS detention facilities utilized since 1980.

During Fiscal Year 1983, INS detainees were held in over 1,000 non-Service detention facilities. These included state and local jails and other Federal facilities in addition to those facilities on contract to INS. On May 31, 1984, the population in the major non-Service facilities was 637 detainees.

Since 1980, INS has utilized major contracts with the following organizations:

SPAN (non-profit);
Behavioral Systems Southwest; and
Corrections Corporation of America.

Admissions to each of the 1,000 facilities broken out by nationality is too burdensome to routinely collect. However, an aggregate breakout is available and is provided below:

| | FY 1982 <u>MAY - SEP</u> | FY 1983 <u>OCT - SEP</u> | FY 1984 <u>OCT - JAN</u> |
|--------------------|-----------------------------|-----------------------------|-----------------------------|
| Afghanistan | 3 | 82 | 71 |
| Belize | 36 | 103 | 68 |
| Colombia | 541 | 1,502 | 463 |
| Cuba | 85 | 358 | 156 |
| Dominican Republic | 276 | 673 | 295 |
| Ecuador | 133 | 551 | 200 |
| El Salvador | 2,927 | 8,400 | 2,976 |
| Ghana | 47 | 81 | 25 |
| Greece | 36 | 89 | 32 |

| | <i>Non-Service</i> | | |
|-----------|--------------------|---------------|---------------|
| Guatemala | 642 | 2,588 | 839 |
| Haiti | 57 | 332 | 105 |
| Honduras | 267 | 949 | 291 |
| Hong Kong | 20 | 35 | 23 |
| India | 80 | 276 | 96 |
| Iran | 144 | 380 | 125 |
| Iraq | 19 | 31 | 6 |
| Jamaica | 125 | 286 | 80 |
| Mexico | 31,610 | 62,045 | 18,536 |
| Nicaragua | 131 | 396 | 323 |
| Nigeria | 189 | 573 | 225 |
| Pakistan | 84 | 161 | 43 |
| Peru | 65 | 163 | 97 |
| Taiwan | 43 | 98 | 42 |
| Others | <u>2,273</u> | <u>4,838</u> | <u>1,579</u> |
| Total | <u>39,833</u> | <u>84,990</u> | <u>26,696</u> |

3. What are the rules for access by legal counsel to those who may not have legal representatives? Are the rules for access by legal counsel to non-INS detention facilities the same as the rules in INS facilities? Please indicate what private agencies and/or church groups are involved in providing legal counsel in each of the INS and non-INS detention facilities.

I have attached for your information the latest policy memorandum on Attorney/Representative Access to Detained Aliens dated January 17, 1984. State, local and other Federal non-Service facilities may have additional rules for access with which legal counsel would need to comply to gain admittance to their facilities.

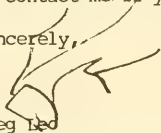
I have also attached the current roster of recognized organizations and accredited representatives pursuant to the provisions of 8 C.F.R. 292.2.

4. How many minors are being held in both the INS and non-INS facilities? What are the procedures and regulation for detention and bonding of minors? Do procedures for detention and bonding differ from facility to facility? If yes, please indicate the differences between facilities. What happens to minors who are detained and do not have parents in the U.S.? Are minors deported?

On June 6, 1984 there were approximately 95 juveniles detained in Service and non-Service detention facilities. I have attached for your information operational policy and regulations which specifically address juveniles. All operational policy and regulations are Servicewide, although court litigation in some jurisdictions may place additional requirements on the Service.

I hope that this information will be helpful to you. Please do not hesitate to contact me if you have any further questions.

Sincerely,



Greg Leo
Director, Congressional
and Public Affairs

Attachments

Los Angeles Times

Publishers

HARRISON GRAY OTIS, 1882-1917
 HARRY CHANDLER, 1917-1944
 NORMAN CHANDLER, 1944-1960
 OTIS CHANDLER, 1960-1980



OTIS CHANDLER
Editor-in-Chief, Times Mirror 1980

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Insensitivity on Refugees

Some of the problems created by the Reagan Administration's insensitive handling of refugees who have fled to this country from El Salvador were graphically illustrated last week when members of Congress visited the long-term detention facility operated by the U.S. Immigration Service in El Centro. They found 492 men crowded into a facility with an official capacity of 344. The delegation talked to detainees who had been held as long as five months in Spartan facilities designed to hold suspected illegal immigrants for no more than a week.

The men held at the El Centro facility are suspected illegal immigrants who have requested formal deportation hearings rather than accepting voluntary repatriation to their homeland, as most illegal aliens caught by the immigration service routinely do. The Salvadorans claim that the civil war in their country makes it dangerous for them to go home, and that they should be allowed to stay in the United States as refugees. The process of petitioning for asylum can take months, however, and in the meantime they are held in detention.

The harsh conditions at El Centro give additional credibility to proposals to release the Salvadorans. The Justice Department is authorized by administrative decision to grant them special legal status

known as extended voluntary departure. Under U.S. immigration regulations, that status can be conferred on any immigrant who admits that he is in the United States illegally and agrees to leave the country at an unspecified future date. That person then is allowed to remain in the United States until political or social turmoil in his homeland has subsided. In recent years this status has been given to illegal immigrants from Ethiopia, Nicaragua and Poland. The Reagan Administration says that it has refused to give extended-voluntary-departure status to Salvadorans because they are here as economic rather than political refugees. But a more likely reason is that the White House and the State Department do not want to embarrass the Salvadoran government, which is receiving massive amounts of U.S. aid to defeat a rebellion that has so far cost 50,000 lives.

Because the Administration has refused to act, Congress has begun to move on the issue. Last month Sen. Dennis DeConcini (D-Ariz.) and Rep. Joe Moakley (D-Mass.) introduced a bill that would simply halt the deportation of Salvadoran illegals for up to two years. That may be the only appropriate action if the Justice Department stubbornly refuses flexibility.

Los Angeles Times, Wednesday, Feb. 20, 1985, Metro p. 1

Conditions Assailed

Salvadoran Men Languish in INS Center in Desert

By LAURIE BECKLUND, Times Staff Writer

'The conditions at El Centro are abhorrent. Salvadorans . . . are housed like criminals without the basic tools they need to even help out on their own legal cases.'

—Cynthia Anderson, Representative of the church-based Southern California Interfaith Taskforce on Central America

EL CENTRO—When the dusty square in the desert called the U.S. Immigration and Naturalization Service El Centro Service and Processing Center was built 12 years ago, it was designed to hold Mexican illegal aliens for a week or two while their deportation was arranged.

But today, many of the eyes that peer out from behind the 12-foot-high fences topped with barbed wire belong to Central Americans who have left their countries amid civil war. Unlike their Mexican counterparts who can simply give up, accept deportation, and try to recross the border again the next day, these men have neither the money nor the will to go home.

Hence, they wait here, sometimes for months or about a year, for their immigration status to be resolved. Without bond money. Often without visitors. Usually with only the faintest hope that

one of the over-burdened immigration lawyers who help them virtually for free will secure political asylum for them.

"I've been here for five months!" cried one lean Salvadoran from behind the fence when a rare group of visitors toured the camp last week. "Can you help me?"

The group was a small fact-finding mission of Los Angeles-area congressmen and a dozen immigrants' advocates who included church-based activists and immigration attorneys. They were particularly interested in the Salvadorans who are now by far the largest single group in custody.

The delegation included Rep. Howard L. Berman (D-Panorama City), Rep. Esteban Torres, (D-La Puente) and Rep. Matthew G. Martinez, (D-Mon-

'This is our best operation. We follow the same standards (as those) maintained by the American Correctional Assn. We are proud of our operation here.'

—Harold Ezell, Regional INS commissi-

tere Park) Rep. Al McCandless (R-Palm Desert) joined the tour at the invitation of the U.S. Immigration and Naturalization Service.

Their tour through the center for alien men served to spotlight the controversies and dilemmas associated with housing the influx of Salvadoran illegal aliens into California.

Lawyers and other advocates for the illegals have long complained about camp conditions.

"The conditions at El Centro are abhorrent," charged Cynthia Anderson, a representative of the church-based Southern California Interfaith Task Force on Central America, in an interview. "Salvadorans are treated as refugees in other countries, and here they are housed like criminals without the basic tools they need to even help out on their own legal cases."

Please see ALIENS, Page 6

ALIENS: Salvadorans Linguish in INS Center

Continued from Page 1

But the immigration service says El Centro is the best of its seven detention facilities, and points to numerous improvements at the camp in recent years.

"This is our best operation," Harold Ezell, regional INS commissioner, told the tour group. "We follow the same standards (as those) maintained by the American Correctional Assn. We are proud of our operation here."

Pledging to press for specific improvements in the detention center, the three Democratic congressmen who toured the center also urged support for a new bill that would grant all Salvadorans now in the United States temporary legal status until war danger in El Salvador subsides.

"I've never seen overcrowding like this," Berman said. "But the real problem is that there's a brutal civil war there (in El Salvador) and there are thousands of people in this facility and thousands of others in the United States who are scared to return. The United States has a duty to respond to that fear and grant them (temporary) refuge."

'Not a Country Club'

"This is not a hotel," McCandless countered. "This is not a country club. I think the INS officials are doing an excellent job of carrying out U.S. immigration law here and we should congratulate them."

Since violence spread through Central America in the late 1970s and early 1980s, the population of the El Centro camp has doubled and redoubled. In 1981, according to INS figures, 3,900 men came through the camp. In 1984, the number rose to 9,800. (Female aliens are held in separate, uncentralized facilities.)

The camp now operates a fleet of 21 diesel buses that rumble in nightly from as far away as Yakima, Wash., and Boise, Ida., disgorging loads of immigrant men who may stay perhaps a year.

On any given day, the camp may well be operating at what INS calls "emergency capacity." In congressional testimony last year, INS officials said the capacity of the camp was 744. Last Wednesday, there were 492 in the facility.

The detainees are housed in what the INS describes as "campus-style" dormitories, 140 to a room, in quadruple rows of bunk beds. A television set equipped with Spanish-language channels is at one end.

The detainees are allowed visits only from blood relatives, and only on weekends. But because the camp is so far from most cities—and because many of their relatives are themselves illegal aliens—few of the men receive visitors.

INS officials said in interviews they believe that the facilities are adequate, if not ideal, given limited budgets.

"We are not administering cruel and unusual punishment here," said Clifton J. Rogers, assistant regional INS commissioner for detention and deportation.

"We have organized recreation. We have a canteen outside and a shaded area for people to play their checkers and their board games. We now have a full-time recreation director. We just got a 16-unit weight-lifting machine. We show the latest movies every other weekend."

In fact, dramatic improvements have been made in the camp over the past few years.

Difficult to Use

But tight INS budgets and tighter regimentation at the camp have made it difficult for the aliens to take advantage of some of them.

For example,

- Newspapers are now distributed in the yard during the day. But, apart from the Bible, reading material is rarely allowed in the dormitories for fear that it will be used to clog the plumbing. Also, attorneys say, immigration literature is frequently confiscated. Paper and pencils are available only at night.

- New telephones have been added. To guard against fraud, aliens can receive no incoming calls and cannot call—even collect—to their homelands. Moreover, the phones are in such noisy areas that detainees complain that they cannot hear when they are speaking.

- Locking boxes were purchased a year ago so that aliens can keep small, personal belongings without fear of them being stolen. But the boxes remain in storage because, officials say, they have no money to hire anyone to install them.

Medical Staff of 3

- A medical staff of three is on duty. But there are no routine checkups upon admission and the aliens complain that they sometimes find themselves sharing quarters with those suffering from venereal disease and tuberculosis.

- The barracks are air conditioned, but aliens are kept outside from 6 a.m. to 6 p.m.

"Having air conditioning in the barracks at night is fine, but what good does it do to have air-conditioned barracks at night when it's 120 degrees when you're out in the sun at noon?" asked Graciela Zavala, directing attorney for the Imperial Valley Immigration Project, which represents numerous clients in the camp.

Camp director Douglas Hunter said that for security reasons he cannot permit the aliens to remain inside in overcrowded barracks during the day, and does not have

sufficient budget to provide sufficient food for the camp.

Hunter points to the camp's medical staff, although he says there has been more than one doctor and health doctor in the camp. The tour said he knew of no active tuberculosis cases. Because no examination is conducted upon entrance to the camp, he added, he must depend on aliens to report their own ailments.

Gilbert Carrasco, executive director of the Center for Immigration Rights, also charged the immigration service with failing to adhere to standards set for such institutions by the American Correctional Assn.

Among the corrections standards violated by the camp, Carrasco asserted, are insufficient space per detainee (only 36 square feet of dormitory space per person compared to the standard 50 square feet), and one toilet per 15 men (half the standard).

Carrasco is among several attorneys suing the INS to obtain better legal representation and access to a law library for the aliens, similar to the libraries available in U.S. prisons.

Funds a Basic Issue

"We have no desire to withhold material from these people," said William Odencranz, regional INS counsel, in an interview. "But one of the basic issues, frankly, is that of funds. We've had an expansion of budget, but not to the extent we'd like to (have)."

The three Democratic congressmen promised to press for specific immediate improvements in the camp. But the long-term answer, they said in an impromptu press conference, is to legalize the status of the more than 500,000 Salvadorans now believed to be living in the United States.

Extended voluntary departure is an immigration status given to refugees to the United States fleeing political violence in their homelands. It allows the refugees

to remain in the United States for a specific period of time until conditions at home make it safe for them to return.

A bill that would have granted such status to Salvadorans expired in Congress last year after being entangled in a larger legislative immigration reform.

The latest, a new bill was introduced Jan. 26 by Rep. Joe Moore (D-Calif.) and Sen. Dennis DeConcini (D-Ariz.).

The bill would allow Salvadorans to remain in the United States until they can return to their homelands, which time would be extended if necessary. It also would have a hearing to determine the period of refuge.

Administration Opposes

The measure is opposed by the Reagan Administration, which has classified most of the Salvadoran camps as economic refugees seeking better living conditions in the United States, not fleeing violence. Less than 3% of political asylum applicants from El Salvador have been granted such status over the past few years.

The bill also has raised fears that if passed, it might prompt an influx of Salvadorans to the United States. To blunt such criticism, the new bill would grant such refugee status only to those Salvadorans already in the country as of the date it becomes law. The bill's supporters believe it has a good chance of passing the House this year. But it faces an uphill battle in the Republican-controlled Senate.

"That's just what we need," said INS Commissioner Ezell, shaking his head as he listened to the Democratic congressmen call for extended voluntary departure status for Salvadorans. "Every Mexican coming across the border would try to pretend he's a Salvadoran. It would be a nightmare."

Today INS agents say the problem is the reverse: Salvadorans coming across the border memorize the Mexican national anthem and learn Mexican slang to try to convince immigration agents not to return them to El Salvador.

MIAMI HERALD

Tuesday, March 12, 1985

By LIZ BALMASEDA
Herald Staff Writer

Alien detention, once a temporary stopgap, has come far from the days in 1980 when thousands of boat people languished under yellow-striped circus tents near the Everglades.

Today, after \$3.5 million worth of remodeling, the Krome Avenue detention center is virtually self-sufficient, equipped with a roomy new dining hall, a clinic and a kitchen, which, in the opinion of Miami Immigration chief Perry Rivkind, is "as nice as the Hilton's."

Today, the government has built centers elsewhere in the country, where aliens who cannot be accommodated at Krome can be sent in an emergency. In January, when the West Dade center was overcrowded, a group of aliens was put aboard a flight to Houston, where they were placed in a year-old processing and detention center.

A \$17 million facility in Oakdale, La., is scheduled for completion in the fall. Controversial for its remote location about 150 miles northwest of New Orleans, the center will be run by the U.S. Bureau of Prisons. It will house 1,000 aliens — up to 6,000 in an emergency.

The sprawling network of facilities, either owned by or operated under contract to the Immigration and Naturalization Service, is evidence that alien detention, as a fixture of U.S. immigration policy, is here to stay.

INS runs seven detention centers across the country. Government contract facilities, like the 350-person Houston center, are built and run by private companies. A new facility was opened in New York after the government moved out of the Brooklyn Navy Yard. Others will be built in Laredo, Texas, and San Diego.

"We're trying to balance our own facilities, and what we've done is add some new ones and remodel others," said U.S. Immigration Commissioner Alan Nelson. "We are doing a great deal more of contracting and that's been working quite well."

About 40 percent of detainees will be handled by the contract facilities, Nelson said.

"I don't think you can or should draw any conclusions that there is a wave or any unusual situation," he said. "Frankly, it's just trying to keep up with the shortages we've had in the past. Our county jails or state prison facilities. We're trying to catch up with the needs out there."

But those who criticize detaining undocumented aliens say INS is settling in concrete the wrong response to the migration problem. Locking up aliens, they say, is a poor deterrent.

Detention was intended to send a strong signal to persons arriving

in the United States seeking relief from economic and political hardships. But it's not working at all. If anything, the numbers of aliens continue to increase," said Wade Henderson, legislative counsel for the American Civil Liberties Union in Washington, D.C.

The ACLU is part of a national forum on Cuban and Haitian refugee rights that was founded after the Mariel talks between the U.S. and Cuban governments. "We're particularly troubled by

the facility in Oakdale, Louisiana. It is such a remote place to ship undocumented aliens. It borders on cruel and inhumane treatment," said Henderson.

Haitian rights advocates in Miami's Little Haiti fear the government will use the Louisiana center to warehouse political asylum cases, the long-term detainees who await the lengthy judicial process.

"That's going to be the government's dumping ground for Haitians — out there, in the boon-

docks. That's the idea, to get them away from their community, from their lawyers, from their support groups," said Father Tom Wenski, director of the Haitian Catholic Center.

Year-long project

The government began building a new Krome more than a year ago, working with the dilapidated missile base as its framework, casting in cement what was once

an island of tents. Basketball courts were resurfaced and a new library was built, along with a 30-bed medical facility and a new kitchen.

The idea was to make "place self-sufficient," said Franklin Graves, Krome's former director who quit in January to set up a private consulting firm. INS is still conducting a nationwide search for someone to fill his \$42,000-a-year job. During his 2½ years as director, Graves, a behavioral science expert and a former Secret Service agent who guarded former President Richard Nixon, experimented with deliberate coloring and design to give Krome a homey feel and "give the people here a sense of pride."

As it stands, the new and improved Krome Avenue center is often overcrowded, packed beyond its capacity of 560. The renovations may have made the onetime Nike missile base self-sufficient, but they created no additional space for detainees.

In the last two months, the INS sent 54 aliens to centers in El Paso

and Houston because Krome had no room.

National problem

The space problem is a national one, the result of an alien load that immigration officials had no way to predict, Rivkind said.

"It wasn't a government error or anything. We never anticipated this. You can only plan for so much," he said. "You can't predict that three boatloads of Haitians are arriving tomorrow. You're talking about something that is not scientific."

Said Verne Jervis, INS spokesman in Washington: "I don't think the idea was ever to expand Krome, but to improve it. Detention space is a problem all over the country, not just at Krome. That's why we're building additional detention facilities around the country."

There's more pressure now on Krome, Rivkind said, because INS has stopped granting most aliens parole, and more aliens are asking for political asylum.

MIAMI HERALD
 Tuesday March 12, 1985

(cont'd)

Parole, he said, hasn't worked. Since August, INS paroled 200 Haitians from Krome on bonds of \$500. So far, of the 45 Haitians sent court appearance dates, 39 have disappeared.

"They were released on bond in the first place because there was overcrowding at Krome," Rivkind said. "We figure 80 percent of the Haitians paroled abscond. They consider paying the \$500 bond the cost of doing business."

"That's nonsense. They are not lost. They don't run away," said Gerry Wynne, who directs refugee services for the U.S. Catholic Conference, the agency through which most of the Haitians at Krome are paroled.

Resettlement

Since August, the USCC resettled 189 Krome Haitians, 78 outside Florida, he said. "And we know where they are," Wynne said.

Asylum requests also lead to overcrowding, Rivkind said. Until recently, few Haitians asked for asylum. "A lot of them didn't know what the word asylum meant. And now they know it — in English. 'Asylum,'" he said.

"Many aliens that arrived here a year or two years ago would agree to voluntarily return to their country. Today, the vast majority want asylum. Now they know asylum keeps you here," Rivkind said. "They can come from Canada and request asylum. That entitles them to be put through the court process, which can take two years."

Last December, 20 aliens were sent to a center in El Paso in January, when Krome's population peaked at 588. 34 Haitians who arrived aboard two boats were sent to Houston. Last week, the population had dropped to 558.

"We've had some Haitians before, but never this many. They're basically here until they have to go before a judge," said John S. Robinson, administrator of the Houston Processing Center, operated by a private company under INS contract. The firm, Corrections Corp. of America, operates six facilities in the country.

"I have always referred to Krome as a voluntary detention facility," Rivkind said. "They all go back to their countries when they want."

MIAMI HERALD

Tuesday, March 12, 1985

(cont'd)



TIM CHAPMAN / Miami Herald Staff



Gunther Wagner, above, shows pride in a new water treatment plant at Krome detention center. Donald Young, left, works on landscaping for a new detention center building. The rehabilitation of the center began a year ago.

Staff Photos
by Tim Chapman

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 25, 1985

Harold W. Ezell
Regional INS Commissioner
Terminal Island
San Pedro, California 90731

Dear Mr. Ezell:

First of all, many thanks to you, Mr. Rogers, Mr. Turnage and Mr. Hunter for your time and effort in conducting us on the tour of the El Centro Service Processing Center. It was a very instructive day.

We would like to follow up on some of the topics we discussed. In particular, we would appreciate any further information you can provide on some of the plans you have for upgrading the facility. We also want to get your advice on how we can be most helpful to you in carrying out your mission.

1. We understand that you have received the go-ahead to enclose the open-walled structure in the yard, install air conditioning and include in that building the following: laundry facilities available to the detainees, a law library with immigration law reference material in English and Spanish, and a crafts or recreation room. We would greatly appreciate it if you would contact Mr. Berman's office in Washington on the day the contract is finally let out, and inform us of the projected completion date for the construction. We would also appreciate any information you could give us about Mr. Hunter's plans for scheduling the detainees' access to the new facility. What times during the day do you anticipate opening the laundry, library and crafts area to detainees? How many detainees will be able to use the facilities at any one time? Do you anticipate that the facilities will be adequate to provide every detainee with access every day, or every few days?

2. We also understand that you intend to construct an air-conditioned waiting area for lawyers and other visitors. Could you please give us some information about the schedule for completing that project, as well as the project for building an enclosed waiting area with toilet facilities for detainees awaiting court hearings?

3. We are still somewhat confused about the camp's policy on visitation with detainees. Regarding their legal counsel, we understand the Orantes preliminary injunction mandates access as a matter of course from 9:00 a.m. to 9:30 p.m., and we understand that Mr. Hunter generally grants access when requests are made to him. But we continue to hear complaints that access is regularly scheduled for only two hours in the morning and two hours in the afternoon. We also hear that some camp supervisors refuse access when Mr. Hunter is not at the camp. Would you be able to provide us with the official written policy on visitation rights for family and for non-family

friends of detainees.

4. Regarding security for detainees' legal documents and personal valuables: Mr. Hunter seems to have devised a very good means of solving the problem with the footlockers he has in storage, but hasn't been able to get the maintenance personnel he needs to implement the plan by installing the lockers. Could you please let us know what the schedule is for getting the additional personnel? Is there anything we could do to expedite that -- any phone calls we could make for you or specific appropriations legislation we could write? We want to be as helpful as we can. Also, on a related topic we did not have time to raise during our visit, we understand that there is no standard procedure for detainees to deliver legal documents to the Immigration Court. We were wondering whether it would be possible to install a locked box in the yard for detainees to leave documents that need to be delivered to the Court?

5. We are interested in getting further guidance on INS Standards for Detention and the American Correctional Association's standards. Toward that end, we are very interested in having a penal expert -- one person, not another delegation -- tour the camp and report to us. His name is Steve Berlin. We will have him contact Mr. Hunter directly to make arrangements for a visit to the camp. We hope you will extend to him the same courtesy you so kindly showed to our group.

6. The situation with regard to medical facilities concerns us. Would you please send us a copy of the proposal you made for a 17-person medical staff, amended as you see fit to meet the changing circumstances of the camp? Please also give us any guidance you think is appropriate on how we can best help get such a medical staff in the camp -- phone calls we could make, specific appropriation we could get passed.

7. Since Mr. Hunter believes that it is impossible to allow detainees access to the barracks during the day, we think it is important to provide additional toilets and sinks in the yard. Do you have a proposal for installing additional facilities, or specific objections to developing such a proposal?

8. We have asked Thomas Riehle on Congressman Berman's staff to collect some information about the ombudsman program for Service Processing Centers generally and specifically about the Office of Professional Responsibility. You, Mr. Hunter and Mr. Rogers have shown him great cooperation and patience so far; we hope you will continue to cooperate with him on this.

9. Finally, would you be kind enough to provide us with a copy of the written information you give incoming detainees regarding rules of the camp and regarding their rights under immigration law?

We were impressed with Mr. Hunter and happy for the opportunity to meet him. He seems to be genuinely interested in balancing the needs and rights of detainees with the fiscal restraints he is operating under. Again, we want to be as helpful as possible in loosening some of those fiscal restraints. And we wanted to thank you again for all your assistance as we carry out our responsibility for the oversight of federal programs.

If there is ever any matter you feel we should know about or any help we can provide you in Washington, please do not hesitate to contact any of us.

To save you needless duplication, you can answer this letter through Congressman Berman's Washington office. He will see that any material you send will be distributed to all three of us.

Sincerely,

MATTHEW G. MARTINEZ
Member of Congress

ESTEBAN EDWARD TORRES
Member of Congress

HOWARD L. BERMAN
Member of Congress

HLB:tr

cc: Cliff Rogers
James Turnage
Douglas B. Hunter



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

CO 703.1557

FEB 7 1985

Honorable Barney Frank
House of Representatives
Washington, D.C. 20515

Dear Mr. Frank:

This is in response to your letter of December 19, 1984 which requested information on current INS policy regarding the detention of those aliens seeking political asylum. Following are responses to your specific questions for which the information is available.

1. What was the total number of people released in FY 1978-84, by year? What number of these were released on their own recognizance? What number did not show up for a scheduled appearance or thereafter present themselves to immigration authorities? If possible, could you break this information down by nationality and/or district office?

| | <u>Aliens Placed on Bond</u> | <u>Aliens Placed on Recognizance</u> | <u>Aliens Placed Under Supervision</u> | <u>Total</u> |
|---------|----------------------------------|--|--|--------------|
| FY 1978 | 7,949 | 824 | 259 | 9,032 |
| FY 1979 | 8,970 | 1,193 | 375 | 10,538 |
| FY 1980 | 8,323 | 2,855 | 274 | 11,452 |
| FY 1981 | 13,216 | 965 | 337 | 14,518 |
| FY 1982 | 24,459 | 2,807 | 145 | 27,411 |
| FY 1983 | 27,472 | 3,022 | 96 | 30,590 |
| FY 1984 | 37,461 | 4,256 | 55 | 41,772 |

Although statistics are not routinely trapped on the number of aliens who fail to appear, a recent analysis of available data indicated that 30 percent of delivery and exclusion bonds are breached.

2. How many aliens in immigration proceedings prior to 1981 used legal services and what was the cost of this service to the federal government?

This Service does not maintain statistics on the number of aliens represented by counsel.

3. What was the average stay in detention for asylum applicants for FY 1984?

Separate statistics are not maintained for asylum applicants. Detention statistics are maintained by two broad categories: "Aliens Under Proceedings" and "Custodial Required Departures." In FY 1984, the average stay for aliens under proceedings (which would include asylum applicants) was about 13 days.

4. What was the total operating cost for Service detention facilities in FY 1978-84, and for non-Service facilities during the same period?

| | <u>Operating Costs for INS Facilities*</u> | <u>Operating Costs for Non-Service Facilities</u> |
|---------|--|---|
| FY 1978 | \$ 5,428,160 | \$ 3,364,595 |
| FY 1979 | 6,162,939 | 3,809,559 |
| FY 1980 | 6,553,116 | 4,039,878 |
| FY 1981 | 10,790,958 | 4,935,819 |
| FY 1982 | 14,987,685 | 6,079,149 |
| FY 1983 | 18,034,157 | 8,723,229 |
| FY 1984 | 19,785,422 | 12,525,835 |

*Includes staff costs.

5. How many aliens at present have been in detention for 30 days, 60 days, 3 months, 6 months, 9 months, one year, a year and a half, or more. If possible could you break this information down, by facility, nationality, and minor or non-minors?

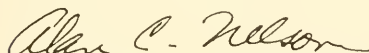
Please refer to the enclosed charts on aliens in detention longer than 30 days (Enclosure A). Statistics are readily available only for those aliens in Service Processing Centers (SPC). Generally, minors are not placed in INS facilities, as Port Isabel is the only SPC equipped to handle family units.

6. Please provide a list of all non-Service facilities used in the past year and their locations.

Please refer to the enclosed list of non-Service detention used by INS in FY 1984 (Enclosure B).

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,



Alan C. Nelson
Commissioner

Enclosures

ALIENS DETAINED MORE THAN 30 DAYS
KROME NORTH SFC

| <u>NATIONALITY</u> | <u>1-2 Months</u> | <u>2-3 Months</u> | <u>3-6 Months</u> | <u>6-9 Months</u> | <u>9 Months- One Year</u> | <u>1-1½ Years</u> | <u>More Than 1-½ Years</u> | <u>Total</u> |
|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------------------|-------------------|--------------------------------|--------------|
| India | 2 | 4 | 1 | | | | | 7 |
| Colombia | 2 | 1 | 7 | | 1 | | | 11 |
| Cuba | 2 | | 1 | | | | | 3 |
| Haiti | 71 | 51 | 183 | | 5 | 6 | | 316 |
| Honduras | 2 | | | | | | | 2 |
| Nigeria | 1 | | | | | | | 1 |
| Nicaragua | 2 | | 8 | | | 1 | | 11 |
| Jamaica | 1 | | | | | | | 1 |
| Trinidad and Tobago | 1 | | | | | | | 1 |
| Grenada | 1 | | | | | | | 1 |
| Ghana | 1 | | | | | | | 1 |
| Germany, Fed. Republic | | 1 | | | | | | 1 |
| Iran | | 2 | | | | | | 2 |
| Dominican Republic | | 1 | 1 | | | | | 2 |
| Bangladesh | | 5 | 1 | | | | | 6 |
| Sri Lanka | | | 1 | | | | | 1 |
| Uruguay | | 1 | 1 | | | | | 2 |
| El Salvador | | | 3 | | 1 | | | 4 |
| Guyana | | | 1 | | | | | 1 |
| Bahamas | | | 1 | | | | | 1 |
| Total | 86 | 65 | 209 | 0 | 7 | 7 | 0 | 374 |

ALIENS DETAINED MORE THAN 30 DAYS
EL PASO SPC

| NATIONALITY | 9 Months - | | | | | | More Than 1 1/2 Years | Total |
|--------------------|------------|------------|------------|------------|----------|---------------|--------------------------|-------|
| | 1-2 Months | 2-3 Months | 3-6 Months | 6-9 Months | One Year | 1-1 1/2 Years | | |
| Hungary | 1 | 1 | 1 | | | | 3 | |
| Iran | 2 | | | | | | 2 | |
| Ecuador | 2 | | | | | | 2 | |
| South Africa | 1 | | | | | | 1 | |
| Mexico | 14 | 7 | 1 | | | | 22 | |
| Dominican Republic | 1 | | | | | | 1 | |
| Peru | 1 | | | | | | 1 | |
| Haiti | 1 | | | | | | 1 | |
| Guatemala | 11 | 32 | 2 | | | | 45 | |
| Honduras | 3 | 4 | 1 | | | | 8 | |
| Nicaragua | 10 | 1 | | | | 2 | 13 | |
| El Salvador | 48 | 10 | 4 | | 1 | | 63 | |
| Nigeria | 1 | | | | 1 | | 2 | |
| Jamaica | 1 | | | | | | 1 | |
| Grenada | 1 | | | | | | 1 | |
| India | | | 1 | | | | 1 | |
| Iraq | | | | | 2 | | 2 | |
| Total | 98 | 55 | 10 | 2 | 2 | 2 | 169 | |

ENCLOSURE A

ALIENS DETAINED MORE THAN 30 DAYS
BROOKLYN SPC

| NATIONALITY | 9 Months - One Year | | | | | More Than 1 1/2 Years | Total |
|----------------------|------------------------|------------|------------|------------|---------------|--------------------------|-------|
| | 1-2 Months | 2-3 Months | 3-6 Months | 6-9 Months | 1-1 1/2 Years | | |
| France | 1 | | | | | | 1 |
| Turkey | 1 | | | | | | 1 |
| Afghanistan | 2 | | | | | | 2 |
| Colombia | 1 | 2 | 14 | 4 | | | 22 |
| Lithuania | 1 | | | | | | 1 |
| Pakistan | 1 | | | | | | 1 |
| Dominican Republic | 2 | 1 | 2 | 1 | 1 | | 7 |
| Haiti | 4 | | 1 | 1 | | | 7 |
| El Salvador | 3 | 1 | 1 | | 1 | | 7 |
| Jamaica | 3 | 1 | 1 | | | | 6 |
| Barbados | 1 | 1 | 3 | 1 | | | 9 |
| Mozambique | 1 | 1 | | | | | 2 |
| Libya | 1 | | | | | | 2 |
| Yugoslavia | 1 | 1 | 1 | | | | 3 |
| Mainland China | 1 | 1 | 1 | | | | 3 |
| Costa Rica | 1 | | | | | | 1 |
| Nicaragua | 1 | | | | | | 1 |
| Nigeria | 1 | | | 1 | | | 2 |
| Syria | 1 | | | 1 | | | 2 |
| Trinidad and Tobago | 1 | | | | | | 1 |
| Malaysia | 1 | | | | | | 1 |
| Thailand | 1 | | | | | | 1 |
| Jordan | | | 1 | | | | 1 |
| Lebanon | 1 | | 1 | | | | 2 |
| Argentina | | | 1 | | | | 1 |
| Dem. Rep. of Germany | | | 1 | | | | 1 |
| United Kingdom | | | 1 | | | | 1 |
| Italy | | | | 1 | | | 1 |
| India | | | | 2 | | | 2 |
| Iran | | | | 5 | | | 5 |
| Ethiopia | | | | 1 | | | 1 |
| Cuba | | | | 1 | | | 1 |
| Guatemala | | | | 1 | | | 1 |
| Antigua | | | | 1 | | | 1 |
| Hungary | | | | 1 | | | 1 |
| Romania | | | | 1 | | | 1 |
| Zaire | | | | 1 | | | 1 |
| Total | 22 | 16 | 28 | 24 | 7 | 0 | 99 |

ALIENS DETAINED MORE THAN 30 DAYS
EL CENTRO SPC

| <u>NATIONALITY</u> | <u>1-2 Months</u> | <u>2-3 Months</u> | <u>3-6 Months</u> | <u>6-9 Months</u> | <u>9 Months - One Year</u> | <u>1-1 1/2 Years</u> | <u>More Than 1 1/2 Years</u> | <u>Total</u> |
|--------------------|-------------------|-------------------|-------------------|-------------------|--------------------------------|----------------------|----------------------------------|--------------|
| Hungary | 1 | | | | | | | 1 |
| China, Mainland | 1 | | | | | | | 1 |
| India | 2 | 1 | | | | | | 3 |
| Iran | 1 | 1 | | | | | | 2 |
| Sri Lanka | 1 | | | | | | | 1 |
| Colombia | 1 | | 1 | | | | | 2 |
| Pakistan | 3 | 1 | | | | | | 4 |
| Mexico | 6 | 1 | 7 | | | | | 14 |
| Cuba | 1 | 1 | | | | | | 2 |
| Peru | 1 | | | | | | | 1 |
| Haiti | 1 | | 1 | | | | | 2 |
| Guatemala | 7 | 2 | | | | | | 9 |
| Honduras | 2 | 1 | | | | | | 3 |
| Nicaragua | 1 | 1 | 1 | 1 | | | | 4 |
| El Salvador | 13 | 6 | 6 | | | | | 25 |
| Bolivia | 1 | | | | | | | 1 |
| Nigeria | 2 | 2 | | | | | | 4 |
| Jamaica | 2 | | | | | | | 2 |
| Belize | 2 | 1 | 1 | | | | | 4 |
| Vietnam | 1 | 1 | | | | | | 2 |
| United Kingdom | 1 | 1 | | | | | | 2 |
| Spain | 1 | 1 | | | | | | 2 |
| Ecuador | 1 | 1 | | | | | | 2 |
| Canada | 1 | 1 | | | | | | 2 |
| Philippines | 1 | 1 | | 1 | | | | 3 |
| Sierra Leone | 1 | 1 | | | | | | 2 |
| Papua New Guinea | 1 | 1 | | | | | | 2 |
| Netherlands | | | 1 | | | | | 1 |
| Mali | | | 1 | | | | | 1 |
| Guyana | | | 1 | | | | | 1 |
| Suriname | | | 1 | | | | | 1 |
| Libya | | | 1 | | | | | 1 |
| Chana | | | 1 | | | | | 1 |
| Total | 50 | 26 | 27 | 2 | 0 | 0 | 0 | 105 |

ALIENS DETAINED MORE THAN 30 DAYS
FLORENCE SPC

| <u>NATIONALITY</u> | <u>1-2 Months</u> | <u>2-3 Months</u> | <u>3-6 Months</u> | <u>6-9 Months</u> | <u>9 Months- One Year</u> | <u>1-1½ Years</u> | <u>More Than 1-1½ Years</u> | <u>Total</u> |
|--------------------|-------------------|-------------------|-------------------|-------------------|-------------------------------|-------------------|---------------------------------|--------------|
| Ethiopia | 1 | | | | | | | 1 |
| Cuba | 1 | | | | | | | 1 |
| Cuatemala | 7 | 1 | | | | | | 8 |
| Honduras | 1 | 1 | | | | | | 2 |
| Nicaragua | 1 | | | | | | | 1 |
| El Salvador | 7 | 2 | 7 | | | | | 16 |
| Kuwait | 1 | | | | | | | 1 |
| Tonga | 1 | | | | | | | 1 |
| Iran | | 1 | | | | | | 1 |
| Argentina | | 1 | | | | | | 1 |
| Unknown | | | 1 | | | | | 1 |
| Nigeria | | | 1 | | 1 | | | 2 |
| Haiti | | | | | 1 | | | 1 |
| Total | 20 | 6 | 9 | 0 | 2 | 0 | 0 | 37 |

NON-SERVICE DETENTION UTILIZED BY INS

FY 1984

ALABAMA

Houston Co.
 Lincoln Co.
 Madison Co.
 Mobile City
 Mobile Juv.
 Montgomery
 Talladega Co.

ARKANSAS

Arkansas Co.
 Benton Co.
 Bentonville City
 Blythville City
 Brinkley City
 Clark Co.
 Cleburne Co.
 Cleveland Co..
 Crittendon Co.
 Columbia Co.
 Conway
 DeSha Co.
 El Dorado City
 Fayetteville City
 Fordyce City
 Franklin Co.
 Garland Co.
 Greene Co.
 Hempstead Co.
 Hot Springs City
 Hot Springs Co.
 Hoxie City
 Independence Co.
 Jackson Co.
 Jefferson Co.
 Johnson Co.
 Lawrence Co.
 Lincoln Co.
 Madison Co.
 Malvern City
 McGeheea
 Miller
 Montgomery Co.

ALASKA

Anchorage - Annex
 Cook Inlet
 McLaughlin
 3rd Avenue
 Barrow
 Juneau
 Ketchikan
 Kodiak

ARIZONA

APACHE COUNTY
 BEHAVIORAL SYS. SOUTHWEST
 BEHAVIORAL SYS. SOUTHWEST
 BENSON ARIZONA
 BENSON ARIZONA
 CITY OF PAGE
 CITY OF PEORIA
 CITY OF TOLLESON
 COCHISE COUNTY JUVENILE
 COCHISE COUNTY JAIL
 COCHISE COUNTY SHERIFF
 DOUGLAS CITY JAIL
 E.T. BINYON FOSTER HOME
 GILA COUNTY
 GRAHAM COUNTY
 GONZALES, ABECA
 GREENLEE COUNTY
 HOUSE OF SAMUEL
 NAZICOPA COUNTY
 NAZICOPA COUNTY
 NAZICOPA COUNTY PHOENIX
 NAZICOPA CITY PHOENIX TUCSON
 METROPOLITAN CORREC. CENTER
 METROPOLITAN CORREC. CENTER
 METROPOLITAN CORREC. CENTER
 METROPOLITAN CORREC. CENTER
 NAVALO COUNTY SHERIFF
 PAPAGO POLICE DEPT.
 PINA COUNTY

COLORADO

Douglas
 Eagle
 El Paso
 Englewood
 Estes Park
 Fort Morgan
 Fremont
 Garfield
 Glendale
 Grand
 Greenwood
 Gunnison
 Huerfano
 Jefferson
 La Plata
 Lake
 Lakewood
 Larimer
 Las Animas
 Lincoln
 Littleton
 Logan
 Longmont
 Loveland
 Mesa
 Moffat
 Monte Vista
 Montezuma
 Montrose
 Morgan
 Otero
 Prowers
 Pueblo
 Rio Blanco
 Rio Grand
 Routt
 Saguache
 Summit
 Vail
 Weld
 Westminster
 Wheatridge
 Yuma

CONNECTICUT

Hartford, CT
 Niantic, CT

FLORIDA

Alactua Dept. Corr.
 Baker Co. Jail
 Collier Co.
 Columbia Co.
 De Soto Co.
 Escambia Co.
 Flagler Co.
 Gadsden Co. D
 Glades
 Groveland PD
 Hamilton Co.
 Hardee Co.
 Hendry Co.
 Hernando Co.
 Highlands Co.
 Hillsborough Co.
 Hillsborough Juv.
 Indian River
 Lake Co.
 Leon Co.
 Madison Co.
 Monroe Co.
 Nassau Co.
 Okeechobee Co.
 Orange Co.
 Orlando Juv.
 Palm Beach Co.
 Palm Beach Juv.
 Polk Co.

FLORIDA

Putnam
 Salvation Army
 Santa Rosa Co.
 Seminole Co.
 St. Johns Co.
 St. Lucie Co.
 Suwannee Co.
 Taylor
 Union Co.

GEORGIA

Chatham Co.
 Crisp Co.
 Dooley
 Douglas Co.
 Floyd Co.
 Fulton Co.
 Gwinnett
 Lowndes Co.
 Muscogee Co.

IDAHO

Ada
 Bannock
 Bingham
 Blackfoot
 Blaine
 Bonners Ferry
 Bonneville
 Buhl
 Caribou
 Cassia
 Clearwater
 Elmore
 Franklin
 Fremont
 Gem
 Gooding
 Jefferson
 Jerome
 Latah
 Lincoln
 Madison
 Nampa
 Owyhee
 Payette
 Power
 Shoshone
 Twin Falls
 Washington

ILLINOIS

Arcola
 Bloomington
 Cambridge
 Carlinville
 Chicago
 Chicago
 Northwest Security
 Clinton
 Eureka

MASSACHUSETTS

MASSACHUSETTS CORRECTIONAL CENTER

ILLINOIS (Cont.)

Fairview Heights
 Hillsboro
 Jacksonville
 Mt. Vernon
 Pontiac
 Princeton
 Rock Island
 Salem
 Springfield
 Sangamon
 Tuscola
 Venice City
 Waterloo
 Watseka

INDIANA

Evansville
 Hammond
 Indianapolis
 Kokomo
 Floyd Co.
 South Bend

 Terre Haute
 Valparaiso

IOWA

Adair
 Atlantic
 Black Hawk
 Boone
 Cass

 Clarke
 Dallas
 Harrison
 Howard
 Johnson
 Linn

IOWA (Cont.)

Lyon
 Marshall
 Mills
 Monona
 Page
 Polk
 Pottawattamie
 Sac
 Scott

 Shenandoah
 Story
 Wapello
 Webster
 Woodbury

KANSAS

Alma
 Atchison
 Atwood
 Booking Fee
 Colby
 Council Grove
 Dodge City
 El Dorado
 Elkhart
 Emporia
 Garden City
 Goodland
 Great Bend
 Greensburg
 Hays
 Herington
 Hugoton
 Kansas City
 Booking Fee
 Lakin
 Leavenworth
 Leoti
 Liberal
 Marion
 McPherson
 Meade
 Medicine Lodge
 Oakley

MISSOURI

Olathe
 Osborne
 Phillipsburg
 Pratt
 Russell
 Salina
 Scott City
 Sublette
 Topeka
 Youth Center
 Ulysses
 Wakeeney
 Wichita

KENTUCKY

Boone
 Kenton
 Met Corfac

LOUISIANA

Alexandria City
 Ascension Parish
 Caddo
 Calcasieu Prsh.Juv.
 Carencro
 Denham Spgs.
 E. Baton Rouge
 Gonzalez
 Jennings City
 Lafayette Parish
 Monroe Co.
 OPCCC
 New Iberia

LOUISIANA (Cont.)

Opelousas City
 Orleans Parish
 St. James
 St. John the Bapt.
 St. Martin
 Shreveport
 Sulphur City
 Union Parish
 Ville Platte City
 W. Baton Rouge
 W. Carrol Parish
 Winn
 Winnfield City
 Youth Study Ctr

MAINE

Calais, ME
 Farmington, ME
 Houlton, ME
 Portland, ME
 Skowhegan, ME

MARYLAND

Bel Air, MD
 Jessup, MD

MASSACHUSETTS

Greenfield, MA
 Lawrence, MA

MICHIGAN

Adrian
 Ann Arbor
 Bay City
 Cass County
 Coldwater
 Dearborn
 Detroit Youth Home
 Grand Rapids
 Hart
 Holland
 Ionia
 Kalamazoo
 Leland
 Manistee
 Marquette
 Mason
 Muskegon
 Paw Paw
 Pontiac
 Children Village
 Port Huron
 Children Center
 Juvenile Center

 Saginaw
 St. Joseph
 Sault Ste. Marie
 Southgate
 Stanton
 Traverse City
 White Cloud

MINNESOTA

Duluth
 Grand Marais
 International Falls

 Moorhead
 Roseau
 St. Paul

MISSISSIPPI

Collins Co.
 De Sota Co.
 Franklin Co.
 Hancock Co.
 Harrison Co.
 Harrison Family Ct.
 Hinds Co.
 Jackson City
 Lamar Co.
 Lauderdale Co.
 Lowndes Co.
 Madison Co.
 Rankin Co.
 Scott Co.
 Simpson Co.
 Stone Co.
 Washington Co.

MISSOURI

Belton
 Benton-Scott
 Berkeley City
 Clayton-St. Louis
 Columbia
 Farmington-
 St. Francois
 Fredericktown-Madison
 Jackson Juvenile
 Jackson
 Kansas City
 Salvation Army
 Lexington
 North Kansas City
 Oregon
 Platte City
 Poplar Bluff-Butler
 Rolla-Phelps

MONTANA

Beaverhead
 Big Horn
 Blaine
 Broadwater
 Cascade
 Flathead
 Gallatin
 Granite
 Hill
 Kalispell
 Lake
 Lewis & Clark
 Meagher
 Missoula
 Phillips
 Powell
 Roosevelt
 Silver Bow
 Toole
 Whitefish
 Yellowstone

NEBRASKA

Adams
 Buffalo

 Cass
 Clay
 Dakota

 Dawson
 Douglas
 Fillmore
 Frontier
 Gothenburg
 Hall
 Hamilton
 Keith
 Kimball

 Lancaster

 Lincoln

 Morrill

 Sarpy
 Scottsbluff
 Seward
 Thurston
 York

NEVADA

CLARK COUNTY JUVENILE COURT
 ELKO COUNTY
 HUMBOLDT COUNTY
 T. J. MANONEY
 NORTH LAS VEGAS POLICE DEPT.

NEW HAMPSHIRE

Epping, N.H.
 W. Stewartstown, N.H.

NEW JERSEY

Bridgeton, N.J.
 Freehold, N.J.
 Hackensack, N.J.
 Salem, N.J.

NEW MEXICO

Artesia
 Belen
 Bernalillo Co.
 Bernalillo Juv.
 Catron Co.
 Chaves Co.
 Clovis
 Colfax Co.
 Curry
 Dona Ana
 Eddy Co.
 Gallup City
 Grant Co.
 Guadalupe Co.

OREGON

Eugene
 Juvenile
 Hermiston
 Hillsboro
 Hood River
 Klamath Falls
 La Grande
 Madras
 Mc Minnville
 Medford
 Medford City
 Juvenile
 Oregon City
 Pendleton
 Portland
 Juvenile
 Roseburg
 St. Helens
 Salem
 Juvenile
 Wasco
 Vale

PENNSYLVANIA

Indiana, PA
 Lewisburg, PA
 Washington, PA
 West Chester, PA

RHODE ISLAND

Cranston, R. I.

OKLAHOMA

Adair Co.
 Broken Bow
 Bryan Co.
 Cherokee Co.
 Clinton City
 Craig Co.
 Creek Co.
 Idabel City
 Jackson Co.
 Le Flore Co.
 Marshall Co.
 McCurtain Co.
 Miami City
 Mushogee City
 Okla. City
 Ottawa Co.
 Pittsburgh
 Rogers Co.
 Tulsa Co.
 Tulsa Juv.
 Wagoner Co.
 Washington Co.
 Wood Co.

OREGON

Eugene
 Juvenile
 Hermiston
 Hillsboro
 Hood River
 Klamath Falls
 La Grande
 Madras
 Mc Minnville
 Medford
 Medford City
 Juvenile
 Oregon City
 Pendleton
 Portland
 Juvenile
 Roseburg
 St. Helens
 Salem
 Juvenile
 Wasco
 Vale

PENNSYLVANIA

Indiana, PA
 Lewisburg, PA
 Washington, PA
 West Chester, PA

OREGON

Albany

 Astoria
 Bend

 Coquille
 Dallas

RHODE ISLAND

Cranston, R. I.

SOUTH CAROLINA

Charleston Co.
 Florence Co.
 Orangeburg
 Richland

SOUTH DAKOTA

Deadwood
 Rapid City

TENNESSEE

Franklin Co.
 Hamilton Co.
 McNary Co.
 Metro Jail
 Roane Co.

TEXAS

Abilene City
 Alternative House
 Amarillo City
 Andrews Co.
 Argus Security
 Atascosa Co.
 Bandera Co.
 Bastrop Co.
 Beaumont
 Belton Co.
 Bexar Co.
 Bexar Co. Juv.
 Big Springs
 Blanco Co.

TEXAS

Bowie Co.
 Brewster Co.
 Brooks
 Brown Co.
 Brownsville
 Cameron Co.
 Cass Co.
 Christ is AnswerELP
 Clarksville
 Comal Co.
 Comanche Co.
 Corrections Corp.
 Crockett Co.
 Culberson Co.
 Dalhart City
 Dallas Co.
 De Soto City
 Dimmit Co.
 Elgin City
 El Paso Co.
 Euless City
 Executive Inn
 Frio Co.
 Gillespie Co.
 Gonzales
 Guadalupe Co.
 Hale
 Harlingen
 Harris Co.
 Harris Co. Juv.
 Hays Co.
 Hidalgo

TEXAS

Hidalgo Juv.
 Hood Co.
 Humble City
 Jim Hogg
 Jim Wells
 Karnes Co.
 Kerr Co.
 Kindle Co.
 Kinney Co.
 Kleberg Co.
 Lafrontera
 Laredo Service Ctr.
 LaSalle Co.
 Lee Co.
 Live Oak
 Lubbock City
 Marshall City
 Mason Co.
 Maverick Co.
 Medina Co.
 McAllen
 McCullock Co.
 McLennan Co.
 McLennan Juv.
 Nixon Co.
 Nuecues Co.
 Odessa City
 Pecos Co.
 Perez MS.
 Polk Co.
 Potter Co.
 Potter Juv.

TEXAS

Presido Co.
 Red River
 Reeves Co.
 Salvation Army
 San Angelo City
 Schleicher Co.
 Starr
 Sutton Co.
 Tarrant Co.
 Reeves Sheriff
 Taylor
 Temple City
 Texarkana City
 Tyler Co.
 Uvalde Co.
 Valverde Co.
 Valverde Welfare
 Victory Outreach
 Walker Co.
 Ward Co.
 Webb Co.
 Webb Juv.
 Webb Det.
 Wharton Co.
 Wichita Falls
 Williamson Co.
 Wilson Co.
 Zapata Co.
 Zavala Co.

UTAH

Beaver
 Brigham City
 Castledale
 Cedar City
 Duchesne
 Farmington
 Fillmore
 Kanab
 Logan
 Manti
 Moab
 Monticello
 Nephi
 Ogden
 Panguitch
 Price
 Provo
 Provo Juvenile
 Randolph
 Richfield
 Richfield Juvenile
 Roy Juvenile
 Salt Lake City
 Salt Lake City Juv
 St. George
 Tooele
 Vernal
 Wendover

VERMONT

Newport, VT
 Rutland, VT
 So. Burlington, VT
 St. Johnsbury, VT

VIRGINIA

Alexandria, VA
 Fairfax, VA
 Manassas, VA
 Petersburg, VA
 Portsmouth, VA
 Richmond, VA
 Virginia, Beach, VA
 Woodstock, VA

WASHINGTON

Anacortes
 Bellingham

 Benton
 Juvenile
 Buckley
 Chehalis
 Chelan
 Colville
 Booking
 Coupeville
 Ephrata

 Franklin
 Kelso

 Kittitas
 Montesano
 Neah Bay
 Oak Harbor
 Okanogan
 Juvenile
 Omak
 Oroville
 Othello
 Port Angeles
 Puyallup
 Renton
 Richland
 Ritzville
 Seattle
 Shelton
 Spokane
 Juvenile
 Sunnyside
 Toppenish
 Vancouver
 Juvenile

 Walla Walla

 Wapato
 Wenatchee

 Juvenile
 Yakima

ALIENS DETAINED MORE THAN 30 DAYS
PORT ISABEL SPC

| NATIONALITY | 1-2 Months | 2-3 Months | 3-6 Months | 6-9 Months | 9 Months- One Year | 1-1½ Years | More Than 1-1½ Years | Total |
|----------------|------------|------------|------------|------------|-----------------------|------------|-------------------------|-------|
| United Kingdom | 1 | | | | | | | 1 |
| India | 2 | | | | | | | 2 |
| Colombia | 3 | 1 | | | | | | 4 |
| Lebanon | 1 | | | | | | | 1 |
| Mexico | 13 | 2 | 2 | | | | | 17 |
| Cuba | 1 | | 2 | | 1 | | | 4 |
| Peru | 1 | 1 | | | | | | 2 |
| Guatemala | 8 | 4 | 2 | | | | | 14 |
| Honduras | 15 | 6 | 4 | 1 | | | | 26 |
| Nicaragua | 37 | 13 | 14 | 3 | | | | 67 |
| El Salvador | 46 | 35 | 27 | 3 | | | | 111 |
| Bolivia | 5 | | | | | | | 5 |
| Nigeria | 1 | | 3 | 1 | | | | 6 |
| Ghana | 3 | 1 | | | | | | 4 |
| Liberia | | 2 | | | | | | 2 |
| Jordan | | | 1 | | | | | 1 |
| Costa Rica | | | 1 | | | | | 1 |
| Tonga | | | 1 | | | | | 1 |
| Total | 137 | 65 | 57 | 8 | 2 | 0 | 0 | 269 |

BOSTON PUBLIC LIBRARY



3 9999 05706 1143